2239

SUPREME COURT OF THE UNITED STATES.

No. 126.

DAVID WRIGHT AND JAMES BRIDGEFORD, COMPOSING THE FIRM OF WRIGHT AND BRIDGEFORD, LIBELLANTS AND APP'TS,

vs.

THOMAS M. URE AND AL., CLAIMANTS OF THE STEAMER CAPITOL, AND G. LOBRANO, SURETY.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE EASTERN DISTRICT OF LOUISIANA.

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Circuit Court of the United States, fifth judicial circuit, and eastern district of Louisiana.

Pleas and proceedings had before the said court at its April term, A. D. 1857, in the case of Wright & Bridgeford vs. steamboat "Capitol," Wm. Chapman and als., claimants; G. Lobrano, surety.

Be it remembered, that heretofore, to wit, on the 15th day of November, A. D. 1856, came into the clerk's office G. Lobrano, the surety on the stipulation for the release of the steamer "Capitol," by his proctor, T. B. Hart, esq., and filed a certain transcript of a record, on appeal from the district court of the United States in and for the eastern district of Louisiana, which said transcript is in words and figures as follows, viz:

Transcript.

United States District Court, eastern district of Louisiana.

In Admiralty.—No. 7,092.

WRIGHT & BRIDGEFORD
vs.
STEAMER "CAPITOL."

Libel. T. B. Hart, esq., proctor. Filed December 19th, 1855.

To the honorable the judge of the district court for the eastern district of Louisiana, in admiralty sitting:

This libel and complaint of Wright & Bridgeford, a commercial firm composed of David Wright and James Bridgeford, residing and doing business in the city of Louisville, State of Kentucky, against the steamboat "Capitol," her tackle, apparel, and furniture, in a cause of contract, civil and maritime, and thereupon the said libellants allege and articulately propound as follows:

1st. That on the sixth day of January, 1855, and some time prior thereto, these libellants furnished to said steamer "Capitol," on the credit of said boat as well as of the master and owners thereof, goods, merchandise, materials and labor used in and for the building and completing of said steamer, as will more fully appear by reference to a bill of particulars, to be produced upon the trial hereof.

2d. That for the price of said merchandise, materials, &c., the master of said boat, James H. Ure, who was also part owner of the same, being duly authorized to that effect, gave in payment thereof a draft or bill of exchange in favor of libellants, and in the name and on behalf of said boat and owners, for the sum of one thousand dollars, $1,000, not novating, however, the original debt for the price of said merchandise, materials, &c., privileged by the laws of the State of Kentucky, and by the general admiralty laws,

on said steamer, her tackle, apparel and furniture, as libellants are advised, and as will more fully appear by subsequent articles.

3d. That said merchandise, materials, &c., were furnished as aforesaid, in the port of Louisville, State of Kentucky, and according to the laws of that State, and the general admiralty laws, bear a privilege on said steamer, her tackle, apparel and furniture.

4th. That, as will appear by reference to said draft and protest hereto annexed for reference, said sum of $1,000 is still due, with legal interest of the state of Kentucky, from the sixth day of January, 1855, and four dollars costs of protest.

5th. Libellants herewith file said draft, to be surrendered to the claimants or owners of said steamer upon payment of the sum due.

6th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court, and that said steamer is now in the port of New Orleans, and about departing therefrom.

Wherefore, libellants pray that admiralty process may issue against said steamer, her tackle, apparel and furniture, and that after due proceedings they be condemned to be sold, to satisfy the claim of libellants aforesaid, with the interest and costs, for a decree of privilege on said steamer, her tackle, apparel and furniture, or their proceeds, and for all further equitable relief.

(Signed) T. B. HART, *Proctor.*

7,092.—Filed December 19th, 1855.

UNITED STATES OF AMERICA,
State of Louisiana.

By this public instrument of protest, be it known, that on this ninth day of Oct., in the year one thousand eight hundred and fifty-five, at the request of Messrs. Benoist, Shaw & Co., holders of the original bill of exchange, whereof a true copy is on the reverse hereof written, I, Thomas Jefferson Beck, a notary public in and for the parish of Orleans, domiciliated in the city of New Orleans, State of Louisiana aforesaid, duly commissioned and sworn, presented said bill of exchange within business hours this day, at the banking-house of James Robb & Co. in this city, where the same is made payable to the paying teller for said banking-house, and there demanded payment of said bill, and was answered, that for want of funds of the acceptor, said bill of exchange could not be paid. Whereupon I, the said notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest, as well against the drawer or maker of the said bill of exchange, as against all others whom it doth or may concern, for all exchange, re-exchange, damages, costs, charges, and interests, suffered or to be suffered for want of payment of the said bill of exchange. Thus done and protested in the presence of Messrs. Samuel D. Hill and Algernon S. Beck.

In testimony whereof, I grant these presents under my signature, and the impress of my seal of office, at the city of New Orleans, on the day and year first above written.

[SEAL.] THOMAS J. BECK, *Not. Pub.*

Exchange for $1,000.

LOUISVILLE, KY., *Jan'ry 6th*, 1855.

Nine months after date of this my first of exchange, (second unpaid,) pay to the order of Wright & Bridgeford one thousand dollars, value received, and charge to steamboat Capitol and owners.

JAMES H. URE.

To James H. Ure, New Orleans.

Endorsed: Wright & Bridgeford.

Accepted; payable at the banking-house of James Robb & Co.

JAMES H. URE.

Personally appeared before me, the undersigned authority, T. B. Hart, who being duly sworn, says that he is duly authorized to represent the libellants in their behalf, and that he verily believes the allegations of the foregoing libel to be true and correct.

(Signed) T. B. HART.

Sworn to and subscribed at New Orleans this 19th Dec'r, 1855, before—

(Signed) ROB'T M. LUSHER,
U. S. Commissioner.

The President of the United States of America to the Marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take the steamer "Capitol," her tackle, apparel, and furniture, now libelled by Wright & Bridgeford, a commercial firm doing business in the city of Louisville and State of Kentucky, in a cause of contract, civil and maritime, claiming $1,000, with legal interest of the State of Kentucky, from 6th January, 1855, in the district court of the United States for the eastern district of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have, or can, why the said steamer "Capitol," her tackle, apparel, and furniture should not be condemned and sold, agreeably to the prayer of the libellants, and how you have executed this warrant, that you make return according to law.

Witness the Honorable Theo. H. McCaleb, judge of the said court, this 19th day of Dec'r, 1855, and the eightieth year of the independence of the United States.

[SEAL.] ROB'T M. LUSHER,
D'y Clerk.

Marshal's Return.

United States District Court.

WRIGHT & BRIDGEFORD vs. STEAMER "CAPITOL." } No. 7,092.

Received December 19th, 1855, and on the same day I seized and took into my possession the said steamer "Capitol," her tackle, apparel, and furniture. On the same day Thomas M. Ure, master and part owner of said steamer, filed in the clerk's office of this hon. court, for himself and on behalf of his co-owners, their claim, according to law; on the same day *the same day* a writ of delivery was issued by this honorable court and placed in my hands, and which is hereto annexed and marked A. In pursuance of said writ of delivery, and on the same day, the said owners, to wit, W. Chapman, J. Chapman, D. Stonaker, A. Poche, represented by Thomas M. Ure, agent and bailee, and for himself as part owner, as principals, and G. Lobrano as surety, executed and delivered to me their admiralty stipulation according to law, which is hereto annexed and marked "B;" and on the same day the said Thomas M. Ure paid to me $6 $\frac{85}{100}$ clerk's costs, and $10 marshal's and commissioner's fees; whereupon I did, on this 19th Dec'r, 1855, release said seizure and deliver the said steamer into the possession and custody of the said Thos. M. Ure, master, bailee, and claimant of the said steamer "Capitol."

Returned December 19, 1855.

(Signed) EMILE MARY,
D'y Mar'l.

Claim.

United States District Court.

WRIGHT AND BRIDGEFORD vs. STEAMER "CAPITOL." } In Admiralty. No. 7,092.

And now come into court, in the above entitled suit, William Chapman, of the parish of St. James; John Chapman, Daniel Stonaker, and Alexander Poché, of the same parish; Thomas M. Ure and Gerard Mengis, of the city of New Orleans, and, by the aforesaid Thomas M. Ure, deposes and says, that the aforesaid parties are the true, sole, only, and bona fide owners of the steamer "Capitol," and that this deponent is duly authorized to claim said steamer in his own behalf and in behalf of the joint and only owners aforesaid.

Wherefore deponent prays that said steamer be released from seizure, and restored to his possession as part owner thereof, on his giving bond conditioned according to law, and upon his otherwise complying with the rules of court, &c.

(Signed) THOS. M. URE.

Sworn to and subscribed before me, this 19th day of Dec., A. D. 1855.

ROB'T M. LUSHER,
U. S. C., East. Dist. of Louisiana.

Bond for $2,000 *filed.* Recorded December 19th, 1855.

UNITED STATES OF AMERICA,
Eastern District of Louisiana.
U. S. District Court.

WRIGHT AND BRIDGEFORD vs. STEAMER "CAPITOL." } No. 7,092.

Know all men by these presents, that we, W. Chapman, J. Chapman, A. Poché, D. Stonaker, and Thos. M. Ure, the said Thos. M. Ure herein acting for himself and as bailee and agent of and for the said W. Chapman, J. Chapman, D. Stonaker, and A. Poché, claimants and owners of the steamer "Capitol," as principal, and G. Lobrano as surety, are held and firmly bound unto Wright and Bridgeford, libellants, in the sum of two thousand dollars, lawful money of the United States, for the payment whereof to the said Wright and Bridgeford, their heirs, executors, administrators, or assigns, we joint and severally bind ourselves, our heirs, executors, administrators, firmly by these presents.

Witness our respective names and seals hereunto affixed by us, at New Orleans, this 19th day of December, one thousand eight hundred and fifty-five.

Whereas an admiralty warrant was lately issued out of the hon. the district court of the United States for the district of La., at the suit of Wright and Bridgeford vs. the steamer "Capitol," her tackle, apparel, and furniture, and numbered 7,092 on the docket of the said court, commanding the marshal to seize and take into his possession the steamer "Capitol," her tackle, apparel, and furniture, which has been seized accordingly, but has been released from said seizure and delivered to the said Thomas M. Ure, bailee and master thereof, the said Thomas M. Ure, for himself and as bailee and agent, having at the time and by reason of the signing, sealing, and delivery of these presents, filed a claim to the steamer "Capitol" in the clerk's office of the said court, and which claim is now of record:

Now the condition of the above obligation is such, that if the

said claimants and surety abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void, but otherwise shall remain in full force and virtue.

W. CHAPMAN, [L. S.]
J. CHAPMAN, [L. S.]
D. STONAKER, [L. S.]
A. POCHÉ, [L. S.]
By THOS. M. URE,
THOS. M. URE, [L. S.]
G. LOBRANO. [L. S.]

Signed, sealed, and delivered in the presence of—
WM. CORNELIUS,
EMILE MARY.

I, G. Lobrano, having been duly sworn, do depose and say, that I am worth the sum of two thousand dollars over and above all my debts and liabilities, so help me God.

(Signed) G. LOBRANO.

Sworn to and subscribed before me, at the city of New Orleans, this 19th day of Feb., A. D. 1855.

(Signed) WM. CORNELIUS,
U. S. Commissioner.

United States District Court.

WRIGHT AND BRIDGEFORD vs. STEAMER "CAPITOL." } In Admiralty. No. 7,092.

And now came into court Wm. Chapman, John Chapman, David Stonaker, Alexander Poche, Gerard Mengis and Thomas M. Ure, owners and claimants of the steamer "Capitol," and for the purpose of excepting to and declining the jurisdiction of this hon. court, and reserving to themselves the right hereafter to file their answer, should this exception to the jurisdiction be overruled, they respectfully show:

1st. That it does not appear from the proceedings in this cause, that this hon. court has jurisdiction in the premises.

2d. The laws of Kentucky (within the territorial limits of which State it is alleged the contract or basis of the lien sought to be enforced by the libellents was entered into) gave no lien upon the said steamer "Capitol," her tackle, apparel or furniture, for the payment of the claim set forth by the libellants *set forth by the libellants*, or any part thereof, as respondents are advised.

3d. That said lien or privilege, if it ever existed, was waived by

the taking of the draft or bill of exchange set forth in the libel of the complainants.

4th. That said lien or privilege under the laws of Kentucky, if it ever existed, became lost and extinguished by the transfer of the said steamer, her tackle, apparel, and furniture, to these respondents, who allege and aver, that on or about the 17th day of Feb'ry and on the 21st day of April, in the year 1855, they became the sole owners of the said steamer "Capitol," her tackle, apparel and furniture, having acquired the same by purchase for a valuable consideration in good faith, and without notice of any pretended lien, as claimed under the laws of Kentucky or otherwise.

5th. That the aforesaid lien, if it ever existed, has become extinguished by the laws of the prescription, as existing in the State of Louisiana.

6th. That this hon. court, sitting in admiralty, has no jurisdiction to enforce a lien created by the laws of Kentucky, but that local privileges must be enforced by courts having ordinary jurisdiction; and these respondents and claimants further allege and aver—

7th. That no admiralty or maritime privilege existed as alleged and set forth in the libel of the complainants, because:

1st. The contract, which is the basis of the lien, if any exists, is not of a maritime nature, nor founded on maritime cause or consideration.

2d. It was not made at or upon waters within ebb and flow of the tide.

3d. The materials allege to have been furnished, and the work and labor alleged to have been performed, were so furnished, and done and performed, if at all, before the steamer Capitol had begun any voyage, and at a time and under circumstances when a maritime privilege will not attach.

4th. That the contract was not made at the place and in manner and form as alleged.

8th. The alleged admiralty privilege, if it ever existed, which is denied, was waived by the taking of the draft or bill of exchange, was lost and extinguished by the sale to these respondents, and was wiped out by the law of prescription herein above particularly averred, relative to the Kentucky lien, and by the law of prescription, as recognised and held by the State courts of Louisiana, and by this honorable court.

Wherefore, and for other reasons which these respondents will hereafter urge before this hon. court, they respectfully except to its jurisdiction and pray for a judgment upon this exception, dismissing the libellant's proceedings at his costs and expense, with such other order, judgment, and decree as the court may have the authority to grant, when dismissing the libel as above prayed for,

for the want of jurisdiction; and these respondents will ever pray, &c.

GEO. S. LACEY,
R. A. UPTON,
And ROBERT WOOLDRIDGE,
Proctors.

STATE OF LOUISIANA,
City of New Orleans.

Personally came and appeared before me, the undersigned authority, Thomas M. Ure, master and one of the owners of the steamer "Capitol," who being duly sworn, did depose and say, that he has heard read the foregoing exception, and that the facts therein stated, and the several articulations therein made, are true to the best of his knowledge, information and belief.

THOS. M. URE.

Sworn to and subscribed before me, this 19th day of Dec., 1855.
(Signed) N. R. JENNINGS, *Clerk.*

United States District Court, sitting in Admiralty.

WRIGHT AND BRIDGEFORD vs. STEAMER CAPITOL. } No. 7,092.

To the Hon'ble Theodore H. McCaleb, judge of the district court of the United States, within the eastern district of Louisiana.

And now appear before me, this hon. court, Wm. Chapman, John Chapman, David Stonaker, Alexander Poché, of the parish of St. James, and Gerard Mengis and Thomas M. Ure, of New Orleans, within the district aforesaid, and for answer to the libel and complaint of Wright and Bridgeford, of the city of Louisville, State of Kentucky, against the steamboat "Capitol," her tackle, apparel and furniture, allege and articulately propound as follows:

1st. That respondents are the true and lawful owners of the steamboat "Capitol," having acquired the same in good faith and for a valuable consideration, by purchase from James H. Ure, on or about the 17th day of February, 1855; and the 21 day of April, 1855, at the time of which transfer James H. Ure was the sole and legal owner of the said boat, her tackle, apparel and furniture; that said purchase was made at New Orleans, in the State of Louisiana, where the said boat then was; that respondents purchased the said boat, her tackle, apparel and furniture, free and clear from all incumbrances whatever; and that from the date hereinabove set forth, these respondents had no interest whatever, as owners, in or to any part or portion of said steamer "Capitol."

2d. That it is true, as these respondents are advised and verily believe, that the libellants did furnish to said steamer "Cap-

itol" materials for, and labor in, the building of the same; but they deny that the said labor and materials were furnished on the credit of the boat, and aver that they were so furnished upon the personal credit of James H. Ure, and no lien or privilege on the boat reserved, as will more fully appear from the articles of agreement, or the express contract between the libellants and the said James H. Ure; and wherein the said libellants, by granting time for the payment of said labor and materials and otherwise, consented to, and did, in fact and at law, waive any lien or privilege which they might otherwise have averred rested upon the said steamboat, her tackle, apparel and furniture.

3d. That on or about the 6th day of January, 1855, the said libellants did receive from James H. Ure his acceptance at six months' date for $1,002 19, his acceptance at seven months' date for $1,000, and another acceptance at nine months for $1,000, making together $3,002 19; and which acceptances were received and taken by the libellants, in full payment for the accounts sued upon; by which receipt in full, and by taking of the aforesaid acceptances, the said Wright and Bridgeford novated any indebtedness that might have originally existed, and waived any lien or privilege which they might otherwise have urged, or which they might have had, either by the local or maritime law.

4th. That these respondents deny the allegations of the third articulation of the libel, averring the same to be false, and allege that the materials and labor that were furnished were so furnished, a portion of them at the city of Louisville, in the State of Kentucky, and the remaining portion at Jefferson, in the State of Indiana, and that neither, according to the law of said State, nor according to the general laws of admiralty, did any lien or privilege bear upon the said boat, her tackle, apparel or furniture, or any portion thereof.

5th. That, as these respondents are advised and believe, no admiralty nor maritime lien attached to the steamer "Capitol," her tackle, apparel or furniture, in favor of the libellants, said steamer never having commenced a voyage at the time the pretended lien is articulated to have begun; and because, furthermore, said contract is not a maritime contract, nor of a maritime nature, nor made within the ebb and flow of the tide.

6th. That if any lien, local or admiralty, ever did exist, it was not only waived and extinguished, as herein before particularly articulated, but the same was also waived, extinguished and forever lost to the libellants, by their permitting the said steamer Capitol to depart from the port of Louisville without the exercise of their rights, connected with the same, if any they had, or without recording the evidence of such lien, according to the laws of Louisiana, where said libellants well knew the said steamer was to be taken for the coast trade between New Orleans and Bayou Sara;

and without attempting to enforce their pretended lien while the said boat remained in the possession, and was the property, of James H. Ure; and because of the sale, transfer and delivering to these respondents of said steamer "Capitol," her tackle, apparel and furniture, in good faith, for a valuable consideration, and without notice of the pretended lien of the libellants.

7th. That relative to the truth or falsity of the averments of the fourth article of the libel, these respondents are unable to declare; but they articulate and expressly propound, that if said sum or draft for $1,000 is due to libellants, as they allege, that the same does not in any manner carry with it any maritime or admiralty lien, or any lien whatever, against the steamer "Capitol," her tackle, apparel, and furniture.

8th. That the respondents aver the falsity of the contents of the sixth article of the libel, and articulate and propound that they are advised and believe that the premises are not true, or within the admiralty jurisdiction of this hon. court.

9th. That respondents articulate and expound, that the claim of libellants is a State claim, and that they, said libellants, by the laws of prescription in this State, and as adopted by the courts of admiralty therein, are barred from having and maintaining the proceedings commenced by them.

10th. That all and singular the premises are true; in verification whereof, if denied, these respondents crave leave to refer to the depositions and other proofs to be by them exhibited in this cause.

Wherefore these respondents, making this answer only in case their exception to the jurisdiction be overruled, and not otherwise, pray that this hon. court will be pleased to pronounce that it hath not jurisdiction, and that it ought not to proceed to enforce the claim alleged in the libel aforesaid against the said steamer Capitol, her tackle, apparel, or furniture, or any part of said claim; that it will also pronounce against the libel aforesaid, and decreed a restoration of the said steamer to these respondents, and to condemn the libellants in costs, and otherwise right and justice towards these respondents to administer in the premises.

GEO. S. LACEY,
R. A. UPTON, and
R. WOOLDRIDGE, *Proctors.*

STATE OF LOUISIANA,
City of New Orleans.

Personally came and appeared before me, the undersigned authority, one of the respondents named in the foregoing answer, who, being by me duly sworn, did depose and say: that he has heard read the foregoing answer, and avows the contents thereof, and that the facts therein stated and the articulation therein made are true, to the best of his knowledge, information, and belief.

THOS. M. URE.

Sworn to and subscribed before me, this 26th day Dec., A. D. 1855.

ROB'T M. LUSHER,
U. S. Com'r.

United States District Court, sitting in Admiralty.

ROACH and LONG vs. STEAMER "CAPITOL." } No. 7,089.
JOHN M. MONAHAN. } 7,093.
WRIGHT & BRIDGEFORD. } 7,094—7,092.

And now comes before the honorable court Thos. M. Ure, and for himself and his co-proprietors and claimants he articulates and propounds:

That in the several answers filed in the above entitled and numbered causes, this respondent erroneously articulated and affirmed that a portion of the account referred to in the libels of the aforesaid causes was furnished at Jefferson, in Indiana, and the remaining portion at Louisville, in the State of Kentucky, whereas, in truth and in fact, and he so now articulates, the materials and labor that were furnished were furnished entirely at the port of Louisville; wherefore he prays that the articulation herein above made may be received as an amendment to that contained in the original answer.

LACEY, UPTON & WOOLDRIDGE,
Proctors.

STATE OF LOUISIANA,
City of New Orleans.

Thomas M. Ure, being duly sworn, doth depose and say: that the foregoing is true, to the best of his knowledge, information, and belief.

(Signed) THOS. M. URE.

Sworn and subscribed before me, the 29th day of Dec., A. D. 1855.

N. R. JENNINGS, *Clerk.*

Hearing and Submission of Exceptions to Jurisdiction.

United States District Court.

In Admiralty.

1856—5.—November term, stated Sessions—Monday, Feb'y 11th, 1856.

Court having met—present, Hon. T. H. McCaleb.

WRIGHT & BRIDGEFORD vs. STEAMER "CAPITOL." } No. 7,092.

Claimants' exceptions to the jurisdiction came regularly up for hearing to-day, Geo. A. Lacey, esq., appearing for the claimants, and T. B. Hart, esq., for the libellants, with H. Marr, esq., as associate proctor.

The nature of the exceptions having been explained, the claimants offered and read in evidence the following documents on file:

1st. Enrolment of boat at Louisville, Ky., Jan'ry 3d, 1855. 2d. Testimony of Wm. Gay, (subject to libellants' exceptions as to effect.) 3d. Receipt of Wright and Bridgeford, libel'ts, Jan'y 6, 1855. 4th. A copy of libellants' petition in the fourth district court of New Orleans.

Admission: the libellants admit that this action in the 4th district court was founded on the same cause which is now in question in the pending libel, stating, however, that the suit there was discontinued before the libel here was filed.

5th. Transfer, 17th Feb'y, 1855, of $\frac{1}{6}\frac{5}{0}$ths of boat.
6th. " 21st April do $\frac{4}{6}\frac{5}{0}$ths do.

By J. H. URE.

The libellants offered and read in evidence, subject to exceptions, the 1st depositions, de bene esse, of Chas. H. Harper and S. Watkins, (with the account of libel'ts, &c., annexed thereto.)

2d. Enrolment, Jan. 16th, 1855, of steamer "Capitol," at New Orleans, by Jas. H. Ure; and also the draft annexed, as an exhibit to the libel herein.

Wm. Gay to be re-examined at request of either party.

Exceptions submitted.

Claimants' Evidence.

U. S. District Court.

WRIGHT & BRIDGEFORD } vs. ST'R "CAPITOL." } In Admiralty.

1st. Enrolment Jan. 3d, 1855, at Louisville, Ky.; filed Feb'ry 11th, 1856.

Enrolment in conformity to the act of Congress of the United States of America, entitled "An act for enrolling, &c., licensing ships or vessels to be employed in the coasting trade and fisheries, &c., for regulating same."

James H. Ure, of New Orleans, State of Louisiana, having taken or subscribed the oath required by the said act, and having sworn that he is a citizen of the United States, sole owner of the ship or vessel called the "Capitol," whereof James H. Ure is at present master, and, as he hath sworn, a citizen of the United States, and that the said ship or vessel was built at Louisville, State of Kentucky, in the year 1855, as per certificate of admeasurement of this date; and said certificate of admeasurement

having certified that the said ship or vessel has one deck and no mast, and that her length is 224 feet, her breadth is 32 feet, and her depth is 6½ feet, and that she measures four hundred and forty-eight $\frac{80}{95}$ ($448\frac{80}{95}$) tons, and that she is a steamboat, has cabin on deck, side-wheels and plain head, and the said James H. Ure having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said steamboat has been duly enrolled at the port of Louisville, this day, 3d January, 1855.

(Signed) HENRY N. SANDS,
Surveyor of Customs.

CUSTOM-HOUSE, PORT OF LOUISVILLE, *Dec.* 31*st*, 1855.

[SEAL.] I hereby certify the above to be a correct transcript from the records at this office, under my official seal.

(Signed) HENRY N. SANDS,
Surveyor of Customs.

United States District Court.

WRIGHT & BRIDGEFORD
vs.
STEAMER "CAPITOL." } In Admiralty.

2d. Testimony of Wm. Gay, read in evidence for claimants, Feb. 11th, 1856.

Saturday, Feb. 2d, 1856. According to an order of court, this day entered in the above entitled cause, directing the testimony to be taken before N. R. Jennings, U. S. commissioner, in behalf of the respondents, the following named witness appeared, and being duly sworn, testified as follows, to wit:

William Gay states, that being shown a book marked A, by the commissioner, he recognised it as the receipt-book of Captain Ure for the steamer "Capitol," and being shown the signatures to the receipts therein, he recognised them as the genuine signatures of the parties, to wit, of J. M. Monohan, Wright and Bridgeford, H. McClaran & Co., Roach & Long, and all the signatures to the various receipts therein having been carefully examined by him. Witness states that he acted as the agent of Captain Ure, of the steamboat Capitol, and that he received the moneys and disbursed the same for the building of said boat, and having examined the accounts in the book marked A, as made up between Capt. Ure and the aforesaid parties, libellants herein, he believes them to be true and correct; states that he left Louisville for New Orleans in Dec'r, 1854, and that the steamboat Capitol was then pretty nearly completed; she could have raised steam at the time, but there was not water enough to carry her over the falls; all the items set forth in the various bills contained in the book marked A, referred to, were furnished before she left the port of Louisville.

States that nearly all the cabin was built by Mr. McClaran in the State of Indiana; the greatest proportion was built there.

Cross-examined.

Witness being asked, states that he knows the signatures of Wright and Bridgeford, Monohan, Roach & Long, from having seen them sign their names. States that he was on board the steamer "Capitol" more than a dozen times, and now recollects that steam was up on her before the witness left for New Orleans.

Witness knew at that time that Capt. Ure was a citizen of the State of Louisiana.

(Proctors for respondents here object to this testimony.)

Witness has understood from Captain Ure within the past two months that the boat was making money, and if the creditors would give him time he would be able to pay off all his debts. Witness supposes that he, Captain Ure, had reference to the claims now sued upon, together with other outstanding debts.

Upon witness suggesting to Capt. Ure the expediency of selling an interest in the steamer "Capitol" for the purpose of paying the debts, Capt. Ure replied that he wanted to sell, but the parties in the city were not ready to purchase; thinks that Capt. Ure mentioned Capt. Leathers, of the steamboat Natchez, as a person who wished to purchase.

Witness has never heard Capt. Ure say that he was still a part owner of the steamboat Capitol.

All the above testimony is objected to by the proctors for respondents, upon the ground that there is no articulation in the libel contained which would authorize the admission of the evidence, and upon the further ground that the libellants are not confining themselves to a cross-examination, but are making the witness their own, which can be done only by offering him as their witness.

(Signed) WM. GAY.

Taken in presence of T. B. Hart, esq., for lib'ts, and Geo. S. Lacey and R. A. Upton, esqs., for clm'ts. Certified at New Orleans this 2d Feb., 1856, by

(Signed)- N. R. JENNINGS,
U. S. Commiss'r.

United States District Court.

WRIGHT & BRIDGEFORD
vs.
STEAMER CAPITOL.
} In Admiralty.—No. 7089.

2247

Original receipts offered in evidence for claimants Feb. 11th, 1856.

Rec'd, Louisville, Jan'y 6, 1855, of J. H. Ure, his accep.

at 6 mos	$1,002 19
Do. at 7 mos	1,000 00
Do. at 9 mos	1,000 00
In full acc	$3,002 19

$3,002 19.

(Signed) WRIGHT & BRIDGEFORD.

The foregoing is a true and correct transcript of the original receipts, exhibited and admitted in evidence.

Feb. 11th, 1856.

(Signed) ROBT. M. LUSHER,
Deputy Clerk.

U. S. Dist. Court, East. Dist. of La.

WRIGHT & BRIDGEFORD
vs.
"STEAMER CAPITOL." } In Admiralty.

Libellants' petition in 4th dist. court of New Orleans, offered in evidence by claimants, on hearing, Feb. 11th, 1856.

To the honorable the Judge of the fourth District Court of New Orleans:

The petition of David Wright and James Bridgeford, residing in the city of Louisville, State of Kentucky, and doing business under the firm and style of Wright and Bridgeford, humbly shows: That James H. Ure, William Chapman, John Chapman, D. Stonaker, Alexander Poche, G. Mengis, and Thomas Ure, all residents of this State, and owners of the steamboat "Capitol," a boat engaged in carrying freight and passengers for hire to and from this port, *and* justly indebted to your petitioners, in solido, in the sum of $1,000 (one thousand dollars,) with $4 costs of protest, and interest at the rate of six per cent. per annum thereon, from the 9th October, 1855, as will fully appear from the draft and protest annexed and made a part hereof.

Wherefore your petitioners pray that said James H. Ure and others, owners of said steamboat "Capitol," be cited and condemned, in solido, to pay them said sum above claimed, with interest and costs, and for general relief.

(Signed) T. B. HART, *Att'y.* [SEAL.

December 4th, 1855.

A true copy.

(Signed) SAMUEL GILMORE, *D'y Clerk.*

(See admission in minute of hearing Feb. 11, 1856.)

U. S. Dist. Court, East. Dist. of La.

WRIGHT & BRIDGEFORD et als. vs. ST'R "CAPITOL." } In Admiralty.

Transfer 17 Feb., 1855, of $\frac{15}{60}$ths of str. "Capitol," by J. H. Ure to W. Chapman, Jno. Chapman, D. Stonaker, Alex. Poche and Gerard Mengis; offered in evidence for claimants Feb. 11th, 1856.

Know all men by these presents, that I, James H. Ure, of the city of New Orleans, State of Louisiana, the true and only owner of the steamboat "Capitol," of New Orleans, burthen four hundred forty-eight and $\frac{89}{95}$ths tons, for and in consideration of the sum of fifteen thousand dollars to me in hand paid, by Wm. Chapman $\frac{2}{60}$ for the sum of two thousand dollars, Jno. Chapman $\frac{2}{60}$ for the sum of two thousand dollars, David Stonaker $\frac{4}{60}$ for the sum of four thousand dollars, Alexander Poche $\frac{3}{60}$ for the sum of three thousand dollars, Gerard Mengis $\frac{2}{60}$ for the sum of two thousand dollars, the receipt whereof is hereby acknowledged, have, and by these presents do grant, bargain, sell, assign, transfer, and set over, unto the said purchasers of said steamboat "Capitol," of New Orleans, in the aforesaid proportions, together with all and singular in aforesaid proportion, her masts, yards, sails, rigging, anchors, cable, boats, tackle, apparel and appurtenances, which said vessel is registered, in the port of New Orleans, in the words following, to wit:

No. 15.—Enrolment Permanent.

Enrolment in conformity to an act of the Congress of the United States of America, entitled "An for enrolling and licensing ships or vessels to be employed in the coasing trade, and for *here is and for* regulating the same."

James H. Ure, of the city of New Orleans, State of Louisiana, having taken or subscribed the oath required by the said act, and having sworn that he as a citizen of the United States, sole owner of the ship or vessel called the "Capitol," of New Orleans, whereof James H. Ure is at present master, and as he hath sworn he is a citizen of the United States, and the said ship or vessel was built at Louisville, State of Kentucky, in the year 1855, as for enrolment No. 4, at the port of Louisville, on the third day of January, 1855, now surrendered, being temporary property, the same and said enrolment having certified that the said ship or vessel has one deck and no masts, and that her length is two hundred and twenty-four feet, her breadth thirty-two feet, and that she measures four hundred forty-eight and $\frac{89}{95}$ tons; that she is a steamboat, has cabin on deck, side-wheels, plain stern and head, depth $6\frac{1}{2}$ feet; and the said James H. Ure having agreed to the description and admeasure-

ment above specified, and sufficient security having been given according to the said act, the said steamboat has been duly enrolled at the port of New Orleans.

Given under our hand and seal, at the port of New Orleans, the 16th day of January, in the year of our Lord one thousand eight hundred and fifty-five. To have and to hold the said steamboat "Capitol," of New Orleans, in aforesaid proportion, unto the said purchasers, their executors, administrators and assigns forever; and I, the said James H. Ure, for myself, my heirs, executors and administrators, do hereby covenant and agree to and with the said purchasers, their executors, administrators and assigns, that at the executions of these presents I am the true and lawful owner of the said steamboat "Capitol," of New Orleans, and appurtenances, and that I now have full right and authority to sell and dispose of the same freed from and cleared of all claims, incumbrances, or demands whatsoever.

In witness whereof, I have hereunto set my hand and seal, at the city of New Orleans, the 17th day of Feb., in the year of our Lord one thousand eight hundred and fifty-five. Signed, sealed and delivered, in the presence of—

(Signed) L. H. DESFORGES,
JAMES H. URE,
GERHARD MENGIS,
ALEXANDER POCHE,
PH. CHARBONNET,
DAVID STONAKER,
THOMAS M. URE.

Presented at the custom-house of New Orleans, the 17th Feb., 1855, at 12 o'clock, m.

DISTRICT AND PORT OF NEW ORLEANS,
Collector's Office, 31*st Jan.*, 1856.

I, John W. Hincks, deputy collector of the customs for the district and port of New Orleans, do hereby certify the above to be a true copy of the records on file in this office.

Given under my hand and seal of office at the custom-house of New Orleans, the day and year as above entitled.

(Signed) JNO. W. HINCKS,
[SEAL.] *D'y Coll'r.*

Enrolment.

No. 63.—Permanent enrolment, in conformity to an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

Wm. Chapman, of the city of New Orleans, State of Louisiana, owner of $\frac{47}{60}$ths, having taken or subscribed the oath required by

the said act, and having sworn that he, together with John Chapman, owner of $\frac{2}{6}\frac{}{0}$, David Stonaker $\frac{4}{6}\frac{}{0}$, and Alx. Poche $\frac{3}{6}\frac{}{0}$, Gerhard Mengis $\frac{2}{6}\frac{}{0}$, and Thos. M. Ure $\frac{2}{6}\frac{}{0}$, all of same place and citizens of the United States, sole owners of the ship or vessel called the "Capitol," of New Orleans, whereof Thomas M. Ure is at present master, and, as he hath sworn, is a citizen of the United States, and the said ship or vessel was built at Louisville, State of Kentucky, in the year 1855, as per enrolment No. 33, I at the port, on the 17th day of Feb., 1855, now surrendered property charged in port; and said enrolment having certified that the said ship or vessel has one deck and no mast, and that her length is two hundred twenty-four feet inches, her breadth thirty-two feet inches, her depth six feet six inches, and that she measures four hundred forty-eight and $\frac{8}{9}\frac{0}{5}$ tons; that she is a steamboat, has cabin on deck, side-wheels, and plain stern and head; and the said Wm. Chapman having agreed to the description and admeasurement above specified, and sufficient security having been given according to said act, the said steamboat has been duly enrolled at the port of New Orleans.

Given under our hand and seal, at the port of New Orleans, this 21st day of April, in the year of our Lord one thousand eight hundred and fifty-five.

DISTRICT AND PORT OF NEW ORLEANS,
Collector's Office, 19th January, 1856.

I, John W. Hincks, deputy collector of the customs of the district and port of New Orleans, do hereby certify the written to be a true copy of the records on file, and given under my hand and seal of office, at the custom-house of New Orleans, the day and year as above written.

JOHN W. HINCKS, [SEAL.]
D'y Coll'r.

Surrendered at New Orleans, 21st Jan., 1856.
(S'd) P. CHANGE. *In port.*

U. S. District Court, East. Dist. of La.
In Admiralty.

WRIGHT & BRIDGEFORD et al.
vs.
ST'R CAPITOL.

Transfer April 21st, 1855, of $\frac{4}{6}\frac{5}{0}$ of steamer Capitol, by J. H. Ure to Wm. Chapman, for $45,000 ; offered in evidence for claimants, Feb. 11th, 1856.

Know all men by these presents, that I, James H. Ure, of the city of New Orleans, State of Louisiana, owner of $\frac{4}{6}\frac{5}{0}$ of the steamboat called the "Capitol," of New Orleans, burthen four hundred

forty-eight and $\frac{80}{95}$ tons or thereabouts, for and in consideration of the sum of forty-five thousand dollars, to me in hand paid by Wm. Chapman, of same place, the receipt whereof is hereby acknowledged, have, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the said Wm. Chapman, said $\frac{455}{600}$ths of said boat "Capitol," of New Orleans, together with $\frac{455}{600}$ths on three quarters of all and singular her masts, yards, sails, rigging, anchors, cable, boats, tackle, apparel and appurtenances, which said vessel is registered in the port of New Orleans, in the words following, to wit:

No. 33.—Enrolment permanent. Enrolment, in conformity to an act of the Congress of the United States of America, entitled An act for enrolling and licensing ships or vessels to be employed in the coasting trade and *for here as and* for regulating the same. James H. Ure, of the city of New Orleans, State of La., owner of $\frac{455}{600}$ths, having taken or subscribed the oath required by the said act, and having sworn that he, together with William Chapman, an owner of $\frac{2}{600}$ths, John Chapman $\frac{2}{600}$ths, David Stonaker $\frac{4}{600}$ths, Alx. Porché $\frac{3}{600}$, Gerhard Mengis $\frac{2}{600}$, and Thomas M. Ure $\frac{2}{600}$, all of same place, and are citizens of the United States, sole owners of the ship or vessel "Capitol," of New Orleans, whereof James H. Ure is at present master, and, as he hath sworn, is a citizen of the United States, and the said ship or vessel was built at Louisville, State of Kentucky, in the year 1855, as per enrolment No. 15, I at the port, on the 16th day of January, 1855, now surrendered property charged in port; and said enrolment having certified that the said ship or vessel has one deck, no masts, and that her length is two *two* hundred and twenty-four feet inches, her breadth thirty-two feet inches, and that she measures four hundred forty-eight and $\frac{80}{95}$ tons; that she is a steamboat, has cabin on deck, side-wheel and plain stern head, depth six feet six inches; and the said James H. Ure having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said steamboat has been duly enrolled at the port of New Orleans.

Given under our hands and seal, at the port of New Orleans, 17th day of Feb., in the year of our Lord one thousand eight hundred and fifty-five. To have and to hold the said $\frac{455}{600}$, or three quarters of said steamboat "Capitol," of New Orleans, unto the said Wm. Chapman, his executors, administrators and assigns, forever; and I, the said James H. Ure, for myself, my heirs, executors and administrators, do hereby covenant and agree to and with the said Wm. Chapman, his executors, administrators and assigns, that at the execution of these presents I am the same and lawful owner of the said three quarters of steamboat "Capitol" and appurtenances, and I now have full right and authority to sell and dispose of the same, freed from and cleared of all claims, incumbrances, or demands whatever.

In witness whereof, I have hereunto set my hand and seal, at the city of New Orleans, the 21st day of April, in the year of our Lord 1855.

Signed, sealed and delivered in the presence of—

(Signed) L. H. DESFORGES,
F. DUPLESSIS,
(Signed) WM. CHAPMAN,
JAMES H. URE.

Presented at the custom-house of New Orleans, the 21st April, 1855, at 2 o'clock p. m.

DISTRICT AND PORT OF NEW ORLEANS,
Collector's Office, January 31st, 1856.

I, John W. Hincks, deputy collector of the customs for the district and port aforesaid, do hereby certify the foregoing to be a true copy from the original on file in this office.

Given under my hand and seal, at the custom-house of New Orleans, the day and year as above written.

[SEAL.] J. W. HINCKS,
Dep'y Coll'r.

Enrolment No. 63.—Permanent enrolment, in conformity to an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

Wm. Chapman, of the city of New Orleans, State of Louisiana, owner of $\frac{47}{60}$, having taken or subscribed the oath required by the said act, and having sworn that he, together with John Chapman, owner of $\frac{2}{60}$; David Stonaker, $\frac{4}{60}$; Alex. Porché, $\frac{3}{60}$; Gerhard Mengis, $\frac{2}{60}$; and Thomas M. Ure, $\frac{3}{60}$, all of same place, are citizens of the United States, sole owners of the ship or vessel called the "Capitol," of New Orleans, whereof Thos. M. Ure is at present master, and, as he hath sworn, is a citizen of the United States; and the said ship or vessel was built at Louisville, State of Kentucky, in the year 1855, as per enrolment No. 33, issued at this port on the 17th day of February, 1855, now surrendered property, charged in port; and said enrolment having certified that the said ship or vessel has one deck and no masts, and that her length is two hundred and twenty-four feet inches, her breadth thirty-two feet inches, her depth six feet six inches, and that she measures four hundred forty-eight and $\frac{80}{95}$ tons; that she is a steamboat; has cabin on deck, side-wheel, plain stern and head; and the said Wm. Chapman having agreed to the description and admeasurement above specified, and sufficient security having been given, according to said act, the said steamboat has been duly enrolled at the port of New Orleans.

Given under my hand and seal, at the port of New Orleans, this

21st day of April, in the year one thousand eight hundred and fifty-five.

DISTRICT AND PORT OF NEW ORLEANS,
Collector's Office, December 10th, 1855.

I, John W. Hincks, deputy collector of the customs for the district and port of New Orleans, do hereby certify the within to be a true copy of the records on file in this office.

Given under my hand and seal of office, at the custom-house of New Orleans, the day and year above written.

(Signed) J. W. HINCKS, [SEAL.]
D'y Coll'r.

Evidence for Libellants.—February 11th, 1856.

U. S. Dist. Court, E. dist. of La.

In Admiralty.—No. 7,092.

WRIGHT & BRIDGEFORD
vs.
STEAMER "CAPITOL."

First depositions, de bene esse, of Chas. H. Harper and Simon Watkins, taken at Louisville, Ky., December 31st, 1855.—Jan. 2d, 1856, by United States Com'r, Wm. S. Pilcher.

Read in evidence for libellants, (clm'ts' exceptions reserved,) on hearing of 11th Feb., 1856.

The deposition of Chas. H. Harper, taken before Wm. S. Pilcher, commissioner of the United States for the 8th circuit and Kentucky district, at the office of Pilcher and Hauser, in the city of Louisville, in said district, on the 31st day of Dec., 1855, to be read as evidence in a suit depending in the United States district court for the southern district of La., wherein Wright and Bridgeford are plaintiff, and the steamer "Capitol" is defendant. The deponent, being of lawful age and personally known to the commissioner, and first carefully examined, cautioned and sworn, doth depose and say, that I (the witness) live in the city of Louisville, more than 100 miles from the city of New Orleans and from the place at which said suit is pending. I was the clerk of plaintiffs, Wright and Bridgeford; their firm is composed of David Wright and James Bridgeford; they are stove and fire-grate manufacturers, and tin, copper and sheet-iron workers and dealers. They furnished, in the city of Louisville, Ky., the place of their business, articles in their line, from the 27th Sept., 1854, to the 6th day January, 1856, both inclusive, to the value of $3,002 19. The account, containing the bill of particulars, is filed herewith, marked (C. H. H.,) my initials, and made part of this my deposition. Said acct. is correct, and all the articles were supplied to said steamer "Capitol," and went to the use of said boat in Louisville, Ky., at the instance

and request of the def't James H. Ure, who, at the time, claimed to be the contracting party and sole owner of said boat, and I say that I never knew or heard of any other owner of said boat, and I say that said Captain Ure, to whom the account herein filed was presented on the 6th January, 1855, admitted the correctness of said acct., and settled the same by certain bills of exchange, one of which he afterwards paid on the 9th July, 1855, of $1,002 19, for which credit is given on the said account. I hereby make the registry of said boat, showing ownership of her in Captain Ure, the def't, part of this my deposition, and file it herewith; and further saith not.

(Signed) CHAS. H. HARPER.

Also the deposition of Simon Watkins, taken at the same place on the 2d day of January, 1856, before the same officer, to be read in the same behalf; *in* the same deponent being of lawful age, and personally known to the officer, and first carefully examined, cautioned, and sworn to speak the whole truth, doth depose and say, that he was in the city of Louisville, Ky., more than one hundred miles from the city of New Orleans, and from the place of the pendency of this suit; and I, the witness, say that the ac. of Wright and Bridgeford, plaintiffs, attached to the deposition of Chas. H. Harper, is correct, and was furnished to said boat Capitol at the instance of Captain James H. Ure, her owner; and said Capt. Ure audited said account, and admitted it to be correct, and went to use of the boat, and settled the same by bills, which, as his agent and clerk, I drew up, and which were signed by him. Captain Ure was sole owner of the boat, and furnished her at Louisville, Ky., where said items of Wright and Bridgeford's ac. attached to the deposition of Harper were put on board. Captain Ure took the papers of the boat in his name, as sole owner, and the certificate of H. N. Sands, surveyor of customs, attached to deposition of H. Harper, is referred to as part hereof. The bills given by Ure to Wright and Bridgeford were to simply close the account, but in no manner to affect the lien on said boat given by the laws of Ky. to secure the same. I have given my deposition in the two cases of H. McClaran &'Co. against st'r "Capitol," and Roach & Long against same, in said court; and it is proper to say here, that the bills drawn up by me, and signed and given by said Ure to the plaintiffs, and those cases also, were given simply to close their respective accounts, and in no case were they given to extinguish the lien given by the laws of Ky. to secure the payment thereof, or in any manner to affect the lien of the mechanics, builders, and material, men on said boat; and in all these cases it was distinctly understood that the lien was not effected by the bills given; and the assignment of the policy was so made as a further security to the plaintiffs, Roach & Long; and further saith not.

SIMON WATKINS.

United States of America, 8th circuit and Kentucky district, City of Louisville.

I, William S. Pilcher, a commissioner of affidavits, &c., of the United States of America, duly appointed in and for said circuit and district, and qualified and acting as such, do certify that, at the request of the praintiff, Wright and Bridgeford, I caused the above named Charles H. Harper and Simon Watkins, deponents in the foregoing depositions, to come before me, *and* the times and place stated in the captions, because the said witnesses live more than one hundred miles from the city of New Orleans, and from the place at which said suit of Wright and Bridgeford against the steamer "Capitol" is pending, as they had stated and as I believe. I did not cause any notice to be given to the adverse party of the time and place of taking the said depositions, because the said adverse party does not reside, or is to be found, as I know or believe, within one hundred miles of the place of taking the same, nor has said party an agent or attorney known to me within that distance. That the said witnesses were by me carefully examined, cautioned, and sworn, then and there to testify the whole truth; that said depositions were wholly reduced to writing by me in the presence of the said witnesses; and that each of them, then and there, in my presence, subscribed his deposition; that I am not of counsel or attorney for either of the parties, or interested in the event of the cause; all which is certified to said court as the cause wherefore said depositions were taken, and for the manner in which it is done.

Given under my hand, as commissioner aforesaid, I having no seal of office, this 2d day of January, 1856.

WM. S. PILCHER,
Com'r U. S. A. Ky. Dist.

Fees of comm'r paid by pl'ff, $5 00.

Steamer "Capitol" and owners in account with Wright and Bridgeford.

Account referred to in deposition of Charles H. Harper.

1854.		
Sept. 27	To 1 large water-bucket	75
	6 lamps for hold, 75 c	4 50
	½ gall. oil can	60
	1 lamp feeder	75
	4 bit heads	6 00
	2 pans, 20 c	40
	1 pig lead, 72 lbs., 8 c	5 76
	198 lbs. galvanized iron suction pipe a 25c.	49 50

Account—Continued.

1854.			
Sept. 27	To Amount Needham's bill for marble work		49 85
	1 cocoanut machine		7 50
	1 bucket		35
	Extra slide and grid pastry stove		4 00
	1 oven slide and gridiron, 20 lbs. 20 c		4 00
	3 oil cans, 25 c		75
	1 copper oil can		1 25
	1 spatula		75
	1 shovel		1 00
	Copper shoes for pumps	45 lbs.	
	Bilges-pipes	119 "	
	Steam-pipe for rigger	44 "	
	Escape-pipe	28 "	
	Suction for pump	74 "	
	Delivery-pipes for fire-pump	184 "	
	Bellows-pipes	10 "	
	Pipes for filling boiler	10 "	
	Copper, 1 ball	98 "	
	Suction for cook-stove pipe	48 "	
	Waste-water pipe for doctor	25 "	
	Sundry small pipes	16 "	
	701 at 55 c.		385 55
	$\frac{1}{6}$ inch 1 brass chamber fire-pump		60 00
	$\frac{2}{5}$ in. do. iron, 45		90 00
	195 feet hose, 45 c		87 75
	1 cook-house pump		15 00
	1 wash do do		15 00
	2 $1\frac{1}{2}$ in. stop-cocks, 3 50		7 00
	1 $2\frac{3}{4}$ in. do		9 00
	18 sets hose screws, 2 75		49 50
	3 delivery pipes, 3 00		9 00
	1st page original—Am't for'd		865 51
	Iron flanges		75
	1 hack saw		1 50
	30 lbs. sheet lead, $12\frac{1}{2}$		3 75
	6 copper saucepans, 60 lbs., 60		36 00
	3 French do. 80 c		2 40
	3 do. do. 1 00		3 00
	3 do. do. 1 10		3 30
	4 do. do. 1 45		5 80

Account—Continued.

1854.		
Sept. 27	4 French saucepans, 2 00	8 00
	1 enamelled do	1 00
	1 do. do	1 90
	1 do. do	1 20
	1 do. do	2 00
	1 iron tin'd pot	1 55
	1 do. do. do	1 40
	1 do. do. do	2 25
	2 square milk cans, 3 50	7 00
	2 pudding moulds, 1 50	3 00
	1 do. do.	1 75
	7 do. do., 1 00	7 00
	2 do. do., 1 25	2 50
	1 pie mould, 3 00	3 00
	1 copper do	3 75
	1 do. do.	4 00
	1 transparent jelly mould	9 00
	1 basket mould	8 00
	1 elephant do	3 00
	1 eagle do	6 00
	1 lion do	6 00
	1 basket do	4 00
	1 jelly do	1 75
	2 cake do 2 00	4 00
	1 ice cream do	2 25
	1 do do	1 75
	2 pies do 1 50	3 00
	2 jellies do 1 25	2 50
	2 do do 1 00	2 00
	3 do do 1 50	4 50
	5 do do 1 00	5 00
	3 do do 50	1 50
	2 do do 75	1 50
	2d page original—Am't for'd	1,039 06
	1 pair scales	2 75
	2 iron coal hods, 1 25	2 50
	1 copper do	4 50
	1 nest boxes	2 00
	3 strainers, 50	1 50
	1 web beater	50
	1 tumble squirt	3 50
	1 strainer	75

Account—Continued.

1854.		
Sept. 27	2½ doz. oval pans, 1 50	3 75
	1 grater	75
	2 oyster gridirons, 1 00	2 00
	6 cream moulds, 50	3 00
	1 julean cutter	5 50
	2 knife baskets, 2 00	4 00
	1 spice box	2 00
	1 tin box	1 50
	6 japanned wash bowls, 50 c	3 00
	4 cake boxes, 1 50	6 00
	1 silver box	2 50
	1 copper mould	6 00
	1 do do	5 00
	4 doz. muffin rings, 75 c	3 00
	1 coffee mill	1 50
	1 pyramid	1 50
	1 do	75
	1 large raised pan	75
	1 do egg whip	75
	1 copper funnel	1 00
	1 strainer	75
		1,112 06
	2 doz. jelly cake pans, 1 50	3 00
	1 vegetable cutter	3 00
	2 tea balls, 50 c	1 00
	1 knife tray	2 00
	9 cake cutters, 10 c.	90
	1 nutmeg grater	10
	1 decorater	50
	1 apple corer	15
	1 sifter	40
	1 brass kettle	3 50
	1 enamelled do	1 00
	1 do do	4 50
	3d page original—Am't forwarded	1,132 11
	50 lbs. Russia iron pans, 30 c	15 00
	1 meat mallet	25
	1 slop bucket	1 25
	2 wood saws, 1 00	2 00
	1 meat saw	2 50

Account—Continued.

1854.		
Sept. 27	1 doz. 10–21 pans	5 50
	1½ do 6–21 do 3 75	5 63
	1 do 4–21 do	3 25
	1 do 3–21 do	2 75
	1 lamp filler	50
	1 do	75
	3 salt boxes, 50 c	1 50
	5 10-qt. deep pans, 50 c	2 50
	2 12-qt. do 60 c	1 20
	3 16-qt. do 1 00	3 00
	4 24-qt. do 1 50	6 00
	2 large dutch buckets, 75	1 50
	2 do cullenders, 1 25	2 50
	1 hot water bucket	2 50
	2 axes, 1 00	2 00
	2 tea cannisters, 1 25	2 50
	1 fry pan	50
	3 omelets, 75 c	2 25
	3 do 90	2 70
	1 tea cannister	1 00
	4 cup baskets, 2 25	9 00
	8 plate baskets, 5 00	40 00
	4 doz. tin plates, 1 25	5 00
	1 cullender	50
	2 gravy strainers, 75 c	1 50
	1 copper mould	7 00
	4 water buckets, 1 25	5 00
	1 jelly strainer	2 50
	1 fire carrier	75
	1 grater	40
	1 saucepan	1 50
	4 doz. cups, 1 50	6 00
	1 2-qt. measure	15
	1 do do	25
	1 cake mould	1 25
	3 do 1 00	3 00
	2 do 75	1 50
	4th page orig'l—Am't forward	1,288 44
	3 cake moulds, 50 c	1 50
	1 do	35
	1 do	25
	1 do	20
	3 dippers, 15 c	45

Account—Continued.

1854.		
Sept. 27	2 dippers, 25 c	50
	1 do	40
	6 do 10 c	60
	2 scoops, 40 c	80
	1 do	25
	2 iron dippers, 50 c	1 00
	3 coffee boilers, 2 00	6 00
	3 kitchen lamps, 1 25	3 75
	2 teapots, 35 c	70
	1 do	40
	1 do	25
	2 potato mashers, 25 c	50
	2 ice-cream freezers, 1 50	1 50
	1 do do	3 50
	1 tub do	2 50
	1 do do	2 00
	3 egg slicers, 25 c	75
	2 cake turners, 25 c	50
	3 a la mode nerdles, 50 c	1 50
	2 steels, 75 c	1 50
	1 pastry knife	50
	1 do	1 00
	3 butcher knives, 40 c	1 20
	1 do	1 00
	2 do. 1 25	2 50
	3 do. 1 30	3 90
	2 skimmers, 20 c	40
	6 basting spoons, 20 c	1 20
	2 do. 25 c	50
	2 do. 35 c	75
	2 do. 40 c	80
	2 iron ladles, 40 c	80
	2 skimmers, 40 c	80
	1 do	30
	1 do	25
	3 iron ladles, 30 c	90
	1 do	50
	1 flesh fork	50
	1 do	30
	5th page of orig'l—Amt. forw'd	1,339 64
	1 bunch skewers	50
	1 do	30
	1 do	35

Account—Continued.

1854.		
Sept. 27	1 egg whip	40
	2 border cutters, 40 c	80
	1 copper mould	3 50
	1 blind slide, 35 lbs. *a* 10 c	3 50
	1 soup saucepan	5 00
	2 flat do. 1 50	3 00
	67 lbs. pan "extra," *a* 20 c	13 40
	1 meat can	3 00
	2 dippers, *a* 25 c	50
	1 boiler and 2 steamers	13 00
	1 brass lantern	2 00
	1 do	3 00
	1 large coffee-boiler stand	9 00
	8 doz. pie plates, *a* 60 c	4 80
	1 masher	25
	2 rolling pins, *a* 25 c	50
	1 doz. pans	2 25
	½ do	1 37
	1 basting spoon	35
	2 do. 20 c	40
	1 do	25
	1 egg slicer	25
	20 lbs. com'n sheet iron, *a* 10 c	2 00
	10 lbs. Russia do. 25 c	2 50
	16 lbs. bar copper, *a* 40 c	6 40
	6 sheets tin, *a* 12½	75
	2 lanterns, 4 50	9 00
	2 do. 3 50	7 00
	1 do	1 00
	1 copper oil can	1 25
	1 paper copper tacks	75
	1 decorating knife	1 50
	1 boning knife	75
	1 butcher do	40
	1 bucket	2 25
	1 wooden bowl	1 00
	6 iron spittoons, 1 00	6 00
	1 pr. foot scrapers with brushes	5 00
	18 foot tubs, 1 00	18 00
	3 lanterns, 1 00	3 00
	6th page of original—Amt. forward	1,478 86
	5 flue lamps, *a* 50 c	2 50
	1 sugar sieve	65

Account—Continued.

1854.		
Sept. 27	10 sheets tin, 10 c	1 00
	2 jelly buckets, 50 c	1 00
	2 chafing dishes, 3 50	7 00
	2 coffee urns, 4 50	9 00
	1 brass sieve	1 50
	2 flour do. 40 c	80
	1 large raised pan	1 00
	1 fire shovel	75
	8 knife buckets, 75 c	6 00
	30 lbs. Russia iron pans, 30 c	9 00
	1 copper soup—net 18 lbs. *a* 60 c	10 80
	1 salt meat boiler	3 00
	3 lbs. sheet copper, *a* 40 c	1 20
	3 lbs. copper pipe, 60 c	1 80
	2 chopping knives, 50 c	1 00
	1 bell	50
	1 sugar kettle, 6 lbs., 60 c	3 60
	6 lbs. Russia iron pans, *a* 30 c	1 80
		1,542 76
	9 lbs. copper pipe, *a* 35 c	4 95
	Putting up same	3 00
	261 lbs. copper under ash pan and cylinder, *a* 50 c	130 50
	3 papers copper tacks, 75c	2 25
	2 bibb cocks, 1 25	2 50
	146 lbs. galvanized iron on deck, *a* 25 c	36 50
	118 lbs. deck pipe, *a* 25 c	29 50
	106 lbs. sheet-iron, under and around cook stove, *a* 10 c	10 60
	364 lbs. sheets large tin, around rooms and kitchen, *a* 25 c	91 00
	4 china washbowls, 3 54	14 00
	4 plated lever basin cocks, 7 00	28 00
	Furnishing chains, and putting up same	7 00
	Lining 5 sinks with zinc, 7 00	35 00
	1 do., for bar	2 50
	842 lbs. com. stove pipe, 12½ c	105 25
	70 do. Russia iron do., 30 c	21 00
	26 do. zinc, under stoves, 15 c	3 90
	3 elbows, 75 c	2 25
	7th page original—Am't for'd	2,072 46
	3 fancy flanges, 2 50	7 50

Account—Continued.

1854.		
Sept. 27.	14 raised flanges, 75 c	10 50
	2 flat do., 50 c	1 00
	5 tin coverings	4 50
	2 swivel tops, 2 50	5 00
	4 caps, 25 c	1 00
	248 feet speaking trumpet, 16⅔ c	42 00
	13 lbs. sheet lead, 11 c	1 43
	2 urinal strainers and couplings, *a* 3 25	6 50
	4 cast-iron privy seats, 7 00	28 00
	16 skylight scuppers, 70 c	11 20
	6 swivels do., 1 50	9 00
	6 small do., 1 00	6 00
	96 feet 2 in. tin pipe, *a* 16⅔ c	16 00
	18 do. 3 in. do	3 00
	13 round elbows, *a* 50 c	6 50
	1 large night-hawk	4 00
	2 galvanized iron boxes, for cranks, *a* 2 00	4 00
	1 No. 1 cooking stove, and fur	200 00
	1 No. 2 pastry do. do	75 00
	1 No. 1 large heavy globe stove, for hall	30 00
	1 raised iron drum for do	7 00
	1 No. 2 International stove, for main cabin	20 00
	1 No. 1 Diadem, for ladies' do	18 00
	1 No. 1 open-top cannon stove	6 00
	1 No. 1 do. do. for Texas	6 00
	3 brass mounted stove stands	21 00
	1 copper boiler, for barber	4 00
	Am't Thos. Williams & Co.'s acc't	240 48
	1 10-gal. alcohol can	2 50
	1 do. filler	50
	4 doz. meat hooks, *a* 50 c	2 00
	1 paste cutter	25
	19 elbows, *a* 16⅔ c	3 17
	8th page of original—Am't for'd	2,875 49
	1 furnace	1 50
	1 griddle, 3 lbs., *a* 6 c	1 80
	1 large lamp filler	1 50
	2 milk cans, 3 00	6 00
	80 pr. life preservers, 1 00	80 00
	1–3 x sad irons	1 00
	1 cake turner	25
	2 butter cups, *a* 25 c	50

Account—Continued.

1854.		
Sept. 27.	5 doz. brass hooks, *a* 30 c.....	1 50
	1 do. knobs, *a* 15 c.....	15
	Amount bill paid H. W. Wilkes & Son.....	32 50
		$3,002 19
	Credit—July 9th, by cash.....	1,002 19
	9th page original.....	$2,000 00

(*Endorsed by Commissioner.*)

Wright and Bridgeford versus Steamer "Capitol."—Account filed.

Exhibit with Harper's deposition, marked (C. H. H.)

Evidence for Libellants.—Feb'y 11th, 1856.

U. S. Dist. Court, East. Dist. of La.

In Admiralty.

WRIGHT & BRIDGEFORD and others
vs.
STEAMBOAT "CAPITOL."

Enrolment of Steamboat "Capitol," January 16th, 1855. Offered in evidence for Libellants, February 11th, 1856.

Enrolment No. 15.

Permanent enrolment, in conformity to an act of the Congress of the United States of America, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

James H. Ure, of the city of New Orleans, State of Louisiana, having taken or subscribed the oath required by the said act, and having sworn that he is a citizen of the United States, sole owner of the ship or vessel called the "Capitol," of New Orleans, whereof James H. Ure is at present master, and, as he has sworn, is a citizen of the United States, and the said ship or vessel was built at Louisville, State of Kentucky, in the year 1855, as per enrolment No. 4, issued at the port of Louisville, on the 3d day of January, 1855, now surrendered, being temporary, and said enrolment having certified that the said ship or vessel has one deck and no mast, and that her length is two hundred and twenty-four feet, her breadth thirty-two feet, her depth six feet and six inches, and that she measures four hundred forty-eight and $\frac{83}{95}$ tons; that she is a steamboat, has cabin on deck, side-wheels, and plain bows and head; and the said James H. Ure having agreed to the de-

scription and admeasurement above specified, and sufficient security having been given according to said act, the said steamboat has been duly enrolled at the port of New Orleans.

Given under our hand and seal at the port of New Orleans, the 16th day of Jan., in the year one thousand eight hundred and fifty-five.

DISTRICT AND PORT OF NEW ORLEANS,
Collector's Office, Feb. 1st, 1856.

I, John Hincks, dep. collector of the customs for the district and port aforesaid, do hereby certify the within to be a true copy taken from the records on file in this office.

Given under my hand and seal of office, at the custom-house of New Orleans, the day and year above written.

(Signed) J. W. HINCKS,
[SEAL.] *D'y Coll'r.*

Close of evidence.

U. S. District Court, eastern district of Louisiana, November Term, 1856.—Stated Sessions—Thursday, Feb. 14th, 1856.

The court met 10 a. m.; present, Hon. Theo. H. McCaleb.

In Admiralty.—No. 7,092.

WRIGHT & BRIDGEFORD
vs.
STEAMBOAT "CAPITOL."

Rule for release of G. Lobrano, surety.

On motion of Alfred Phillips, esq., of counsel for G. Lobrano, surety herein, on the bond releasing said steamboat "Capitol" from the custody and keeping of the U. S. marshal, filed Dec'r 19th, 1855, and on his suggesting to the court that said Lobrano is desirous of being released from said suretyship, and said steamboat Capitol now being in the port of New Orleans, and within the admiralty jurisdiction of this hon. court, it is ordered that the libellants and claimants herein, through their respective proctors, do show cause, on Friday, the 15th inst., at 10 o'clock a. m., why G. Lobrano, surety aforesaid, should not be released and discharged from all or any responsibility as surety upon said bond, and the U. S. marshal be ordered to retake said steamboat "Capitol" into his possession and keeping.

U. S. District Court, eastern district of Louisiana, November Term, 1855–'6.—Stated Sessions—Friday, Feb'y 15th, 1856.

The court met 10 a. m.; present, Hon'ble Theo. H. McCaleb.

In Admiralty.—No. 7,092.

WRIGHT & BRIDGEFORD
vs.
STEAMBOAT "CAPITOL."

The rule herein for the release of G. Lobrano, surety, came regularly up for hearing, and was argued by C. Roselius, esq., in support thereof, and T. B. Hart and H. Marr, esqs., for the libellants, in opposition thereto, the claimants not appearing when the court took the same under advisement.

U. S. District Court, eastern district of Louisiana, February Term, 1856.—Monday, February 18th, 1856; present, Hon. Theo. H. McCaleb.

In Admiralty.—No. 7,092.

WRIGHT & BRIDGEFORD
vs.
STEAMBOAT "CAPITOL."

The court having considered the rule herein submitted for the release of G. Lobrano, surety on the bond, to answer the decree in this cause, and it appearing that the express condition of his obligation in said bond is to abide by the final decree in this cause, and pay such amount as shall be awarded, and that the steamboat "Capitol," alleged to be within the admiralty jurisdiction of this court, is actually within the custody of the sheriff of the parish of Orleans, it is ordered and adjudged that said rule be discharged.

United States District Court, eastern district of Louisiana.

February Term, 1856.—Stated Session—Tuesday, March 4th, 1856.

The court met 10 a. m.; present, Hon. Theo. H. McCaleb.

In Admiralty.—No. 7,092.

WRIGHT & BRIDGEFORD
vs.
STEAMBOAT "CAPITOL."

Judgment sustaining Jurisdiction.

The court having carefully examined, reviewed, and considered the grounds urged by the claimants herein, in support of their exceptions to the jurisdiction, it is now ordered, for the reasons rendered in the written opinion of the judge, that the exceptions be overruled, and the case brought to trial on the merits.

United States District Court.

In Admiralty.—No. 7,092.

WRIGHT & BRIDGEFORD, and others,
vs.
STEAMBOAT "CAPITOL."

Decision or exception to Jurisdiction, rendered March 4th, 1856.

In this case, it appears from the evidence that the steamboat was built and furnished at Louisville, in the State of Kentucky, when she was finally completed and ready to perform voyages in

the particular trade for which she was designed. The unsettled accounts which were due for her construction and equipment were closed by drafts drawn on James H. Ure, and made payable in this city. These drafts were duly accepted, and are yet unpaid. They are held by the parties to whom they were originally due for the work done, and supplies furnished in the construction and equipment of the boat. These parties claim to have a lien upon the boat, for the satisfaction of the drafts, by virtue of the laws of Kentucky. The law of that State which is particularly relied on declares, that "mechanics, tradesmen, and others, shall have a lien for work, supplies, materials, stores and provisions, done and furnished, on or towards the building, repairing, fitting, furnishing or equipping the boat or vessel in this State, with a preference or priority therefor over any other debt of the owner, except to the officers and hands, and over all other liens thereafter created. When so done or furnished out of the State, there shall be a like lien therefor, which shall have precedence next after that given when done or furnished in this State; but if done or furnished out of the State subsequent to that done or furnished in this State, the liens shall be joint and equal. The liens thus given shall not be enforced against a purchaser without actual notice thereof, unless suit be instituted within one year from the time the cause of action accrued, unless notice thereof be endorsed on, or attached to, the enrolment of the boat or vessel." Sitting as a court of admiralty, I am called upon to enforce the liens created by the law of Kentucky. The right or power of this court to enforce any lien of a maritime nature, created by any other State than Louisiana herself, has been strongly contested.

The action of the State tribunals, which have refused to recognise and enforce liens created by the legislature of other States, has been invoked as a rule by which my own judicial conduct should be guided. My opinion, formed after much reflection, is, that the actions of the courts of the United States should be confined to no such narrow restrictions. In reference to the rights of property regulated by the law of the State within which a federal court administers justice, it is undoubtedly governed by that law; and if a law of any other State is invoked, which contravenes the policy of the legislation of the particular State within which its powers are exercised, it would be its duty to disregard the former and uphold the latter. But in matters of contract I am aware of no principle of law which prevents it from recognising and enforcing the rights of a citizen of another State as promptly and effectually as it is bound to enforce the rights of a citizen within its immediate jurisdiction. If a citizen of Kentucky claims here the recognition and enforcement of a lien of a maritime nature, created by the laws of his State, where the contract was made, I am unable to discover any valid reason why I should refuse to grant the same remedy which, sitting as a court

of admiralty, I should be bound to accord to the possessor of a similar lien under the law of Louisiana. It has been the invariable rule in this court to enforce liens of a maritime nature created by the laws of other States of the Union, and I have never heard the legality of its action contested until the present term. I shall adhere to the rule hitherto observed until otherwise directed by a higher tribunal. I consider it a rule founded in justice, and a due regard to the legislation of the sister States of the confederacy. The judges of the courts of the U. States are bound to take notice of the laws of the different States, and to give them their full force and effect where they apply. To refuse a remedy to the holder of a lien upon a steamboat, or other vessel, arising from work and labor performed upon such boat or vessel, from the party having furnished materials and supplies to fit her for navigation, would be at once to place the numerous artisans employed in the construction of steamboats in the ports of Pittsburg, Cincinnatti, and Louisville, completely at the mercy of the owners of such boats, in all cases where a credit might be granted. It will only be necessary for the owner to bring her out of a jurisdiction where the lien could be enforced, and keep her employed in the southern trade, until the expiration of the time allowed by the local law for the continuance of the lien. It is difficult in a case like this to separate the lien from the contract between the shipwright and the owner of the vessel. The very fact that such a security results from the labor of those persons employed in constructing and furnishing a vessel is the strongest inducement to such persons to enter into the contract. There are very few boats built on the western waters which are paid for in cash. A large proportion of the costs of building must be defrayed by the profits earned by the boats after they engage in trade. Hence, for the security of the builders, the lien given by the laws of Kentucky continues for one year. In the present case the libel was filed within the time fixed by the law; and even if we are to consider the boat as a domestic vessel, the lien must be regarded as attaching at the date of the institution of the suit, and properly cognizable by the court.

Thus far I have considered the case as if the boat were a domestic vessel; but the evidence shows that she was built for James H. Ure, a resident of New Orleans, and a citizen of La. She was designed for the southern trade, and since her construction has been running in that trade; she is, therefore, to all intents and purposes, as to the port of Louisville, a foreign vessel. The lien in favor of those who built, equipped, and furnished her, must be regarded as valid under the general admiralty law, and it is unnecessary to cite authorities to show that it is the peculiar province of this court to enforce it.

The execution and delivering of the drafts introduced in evidence did not destroy the lien; it did not in law, nor in the understand-

ing of the parties. The witness Watkins, introduced on behalf of the libellants, states that the bills given by Ure were given simply to close the accounts, and in no case were they given to extinguish the lien created by the laws of Kentucky to secure the payment thereof, or in any manner to affect the lien of the mechanics, builders, and material men, on said boat; and in all these cases it was distinctly understood that the lien was not affected by the bills given.

As a matter of law, it is well settled that if an exclusive personal credit has been given by material men, they cannot afterwards, upon any change of circumstances or opinion, resort to the ship; but, prima facie, the supplies are to be deemed to have been furnished on the credit and owners, until the contrary is proved. It has been held that the acceptance, as a conditional payment, of a negotiable promissory note, which had not been surrendered or tendered to be given up, was a varier of the right to resort to an admiralty suit for satisfaction. If, however, the note was not taken as absolute payment, or is not, by the local law of the State where the debt was contracted, to be deemed to have been taken, and if the creditor at the hearing offers to surrender it, the lien exists and may be enforced in the admiralty. (12 Wheaton, 611; 2 Story, 455.)

In this case the acceptances of Ure are filed in court, and offered to be surrendered on the hearing.

But it is further urged in argument, that a court of admiralty cannot take cognizance of the claim of a builder for materials furnished, and labor bestowed, in the construction of a vessel which has not been yet employed in a maritime pursuit, although the local law might give him a lien on the vessel. Claims of this nature have been held to be unquestionably within the admiralty jurisdiction, provided the vessel is designed for maritime business on waters within the admiralty jurisdiction. Read vs. The Hull of a New Brig (1 Story, 244,) was a case of the description, and Mr. Justice Story, in maintaining jurisdiction, said: "The brig is built and designed for maritime business and navigation upon the sea, and upon waters navigable from the sea, so that her employment is clearly to be maritime, and the contract for the work and labor is for maritime purposes." A like jurisdiction was exercised upon the same ground by the late Judge Hopkinson, of the U. S. district court for the eastern district of Pennsylvania, in the case of Harper vs. A New Brig. (Gilpin's R., 473.)

The question whether the rights of the libellants can be enforced against a bona fide purchaser for a valuable consideration without notice, is one which cannot properly be considered at this stage of the cause.

It envolves an examination of evidence which the parties have not yet had an opportunity of presenting to the consideration of

the court. It is clearly, therefore, a question to be determined when we come to consider the merits of the controversy.

The exceptions taken in this case must, for the reasons here given, be overruled.

Submission of Case on Merits.

U. S. Dist. Court, eastern district of La.

In Admiralty.—No. 7,092.

Feb'ry Term, 1856.—Stated Sessions—Friday, March 14th.

Court met at 10 a. m.; present, Hon. Theo. H. McCaleb.

WRIGHT & BRIDGEFORD, with others,
vs.
STEAMER "CAPITOL."

This cause, with others, being set down for hearing on the merits, T. B. Hart, esq., appeared for the libellants, and Geo. S. Lacey, esq., for the claimant, and by consent the same was submitted.

Order.

February Term, 1856.—Stated Sessions—Tuesday, March 25, 1856.

The court met at 10 a. m.; present, Hon. Theo. H. McCaleb.

WRIGHT & BRIDGEFORD, with others,
vs.
STEAMER "CAPITOL."
No. 7,092.
Per Curiam.

The court being unable to decide these causes, on the present pleadings and evidence, orders, that a day be fixed by the parties for the presentation of proof and argument on the point pleaded by the claimants in their answer, and denied by the libellants, to the effect that the present claimants were purchasers, bona fide, from Jas. H. Ure, the original owner of the steamer "Capitol."

Amended Libel.—Filed March 29th, 1856.

U. S. District Court, East. Dist. of Louisiana.

JOHN M. MONOHAN and others,
WRIGHT & BRIDGEFORD,
vs.
STEAMBOAT "CAPITOL."

To the Hon. the Judge of the District Court of the United States for the eastern district of Louisiana, in admiralty sitting:

The supplemental and amended libel of John M. Monohan, residing in the city of Louisville, State of Ky., against the steamer "Capitol," her tackle, apparel and furniture, in a cause of contract, civil and maritime; and thereupon said libellant alleges as follows, to wit:

That the testimony of Wm. Chapman, a resident of the parish of St. James in this State, and who is one of the claimants of said

steamer Capitol, as appears by his answer filed herein, is material in behalf of libellant herein; wherefore libellant prays leave to file this amended and supplemental libel, and that said Chapman be cited to appear and answer under oath, and in writing, within the legal delays, the interrogatories hereto annexed, and that after due proceedings, libellant have judgment as prayed for in his original libel herein filed, and for all further and equitable relief in the premises.

T. B. HART & HENRY MARR,
Proctors.

Interrogatories Annexed.

First inter. Have you now, or did you have, on the 19th day of December, 1855, when this suit was instituted, or previous thereto, any interest as owner in the steamer "Capitol?" If yea, state the nature and amount of said interest, from whom you acquired it, at what time you acquired it, and what consideration you paid for it.

Second. If you say you acquired an interest in said boat from James H. Ure, state whether or not you are now indebted to him for or on account of said boat; and if you are so indebted, state the amount of said indebtedness, and by what the same is evidence?

Third. Was or not a counter letter given by you to James H. Ure on account of the transfer to you of his interest in said boat, or did you give him any written obligation or bill of sale, retransferring said interest therein?

Fourth. If you paid no money, but gave other property in exchange for, or as a consideration for your interest in said boat, what description of property was it, where is it situated, what is its value, and to whom did you deliver it?

Fifth. If you gave notes for your interest in said boat, or other obligations, state to whom they are payable, their several amounts, where due, where they were executed, and what portion thereof you have paid.

Sixth. Was the transfer from James H. Ure to you real and "bona fide," or was it "simulated" and made to protect the "Capitol" against the creditors of the steamer "Gipsy," formerly owned by said Ure?

Seventh. What relationship or connection exists between James H. Ure and yourself, and is he not your son-in-law?

Eighth. At the time you acquired your interest in the steamer "Capitol" were you not informed, or did you not know, that the claim of libellant and other claims for building and furnishing the boat were unpaid, and did not the boat pay a portion of said claims after the transfer from James H. Ure to you?

T. B. HART,
And HENRY MARR,
Proctors for Libellants.

Personally appeared T. B. Hart, who being sworn, declares that he is duly authorized to represent the libellants in this behalf, and that he verily believes the obligations of the foregoing amended libel to be true and correct.

(Signed) T. B. HART.

Sworn to and subscribed before me this 29th day of March, A. D. 1856.

(Signed) M. R. JENNINGS, *Clerk.*

U. S. Dist. Court, East. Dist. of Louisiana.

JOHN M. MONOHAN and others,
WRIGHT & BRIDGEFORD,
vs.
STEAMER "CAPITOL."

Answers of Wm. Chapman to amended libel, filed April 18th, 1856.

In these causes the claimant, Wm. Chapman, comes before the court, and in answer to the interrogatories propounded to him in the above entitled and numbered causes, he says:

Answer 1st. On or about the 17th day of Feb., 1855, I purchased from James H. Ure $\frac{2}{6}\frac{}{0}$ of the steamer "Capitol;" and on the 21st day of April, 1855, I bought from the said Ure $\frac{4}{6}\frac{5}{0}$ of the said steamer, and continued to own the portions aforesaid of the said steamer up to and after the 19th day of December, 1855.

For that portion of the boat bought by me on the 17th day of February, 1855, I paid to the said Ure the sum of two thousand dollars cash.

For that portion bought on the 21st day of April I gave the sum of forty-seven thousand dollars, paid in my notes to my order, which I handed over to the said Ure.

Answer 2. The said Ure now holds the notes given by me for the payment of the said boat, (with the exception of two of them,) unless the same have been transferred by him. I cannot state where the said notes are. Whether or not I am indebted to the said Ure is a legal question, which I cannot answer under oath. The Capitol when sold to me had in her worthless boilers, manufactured by Roach & Long, of the city of Louisville, and on account of which worthlessness the said boilers have been subsequently condemned by the U. S. officers. The bad and defective condition of such boilers had become known to me long subsequent to the sale at which I purchased; they were the means of stopping the said steamer from running at a busy season of the year, and caused the owners very heavy damages. Under such circumstances, it is impossible for me to say in what amount, if any, I am indebted for the price agreed to be paid.

Answer 3. No counter letter was given, or any written obligation or bill of sale re-transferring my interest in the said boat to the said Ure.

Answer 4. I have already stated, in my first answer, the consideration given by me for the undivided interest which I acquired in the "Capitol."

Answer 5. As near as I can recollect, there were six notes given by me, payable to my order, and by me endorsed, and made payable in instalments of six months, to the best of my present recollection; they were made payable at the house of James Robb & Co. Capt. Ure was indebted to my children, and returned to me two of the notes, wishing to apply the same on account of such indebtedness; but as the boat was in a defective condition at the time of sale, and much damage has been caused on account thereof, I am not willing to take the notes upon the terms offered; I deny my legal liability to pay the same.

Answer 6. The sale was not simulated, but made "bona fide." I considered that I was acquiring the interest I professed to buy, and consequently gave my notes, in negotiable form, without counter letter or the like. I have, as owner of the Capitol, been subjected to my pro rata of liability to the extent of thirty-five thousand dollars and upwards.

I do not recollect that the debts of the creditors of the steamer Gipsy had anything to do with my purchase, but do state that the boat was not bought by me to defraud any person whatever. I bought in good faith, with the hope that I might thereby be able to assist Capt. Ure.

Answer 7. James H. Ure is my son-in-law.

Answer 8. I did not know at the time of my purchase of the existence of some western claims vs. Ure, on account of the Capitol, but had not the slightest knowledge or information of any lien or privilege upon the steamer. I bought her as free from all incumbrances; Capt. Ure may have paid something on account of these debts, but I never have nor ever sanctioned such payments on my account, as one of the owners of the Capitol; never considered as liable for the debts of the Capitol contracted previous to my purchase.

(Signed) W. CHAPMAN.

Sworn to and subscribed before me this 16th day of April, A. D. 1856. (Signed) N. R. JENNINGS, *Clerk.*

Rule on Wm. Chapman.

U. S. Dist. Court, East. Dist. of Louisiana.

In Admiralty.—7,092.

Feb'ry Term, 1856.—Stated Sessions.—Tuesday, Apr. 22d, 1856.

The court met at 10 a. m.; present, Hon. T. H. McCaleb.

WRIGHT & BRIDGEFORD, with others,
vs.
STEAMBOAT CAPITOL.

[REC. CXXVI, D. T., 1858.]—6

On motion of T. B. Hart, esq., proctor for libellants, it is ordered that Wm. Chapman, one of the claimants herein, show cause on Saturday, the 26th inst., at 10 a. m., why, on the grounds herewith submitted, the interrogatories propounded to him in the supplemental libels should not be taken as confessed.

Order.

And it is further ordered that this and other cases vs. the "Capitol" be set down for hearing on said day.

Grounds referred to in foregoing Rule.

Libellants allege that said Wm. Chapman's answers to the said interrogatories are indefinite, evasive and irresponsive, and not such as the law requires.

Submission of Rule.

Saturday, April 26th, 1856.

The court met at 10 a. m.; present, Hon. Theo. H. McCaleb.

WRIGHT & BRIDGEFORD, with others, vs. STEAMBOAT "CAPITOL." } 7,092.

The rule herein entered on the 22d inst. came regularly up for hearing—T. B. Hart, esq., appearing for the libellants, and Geo. S. Lacey, esq., for the claimant, W. L. Chapman. It was agreed that the interrogatories and answers herein should apply to all the pending suits against the "Capitol," as per consent filed. The case was then argued at length by H. Marr, esq., for libellants, and the proctor for claimants in reply, when the court took the same matter under advisement.

Judgment of his Hon. T. H. McCaleb on merits of case.

U. S. Dist. Court.

In Admiralty.—May 25th, 1856.

JOHN M. MONOHAN and others, WRIGHT & BRIDGEFORD, vs. STEAMBOAT "CAPITOL."

The only question now to be determined in this case is, can the lien of the material man be recognised and sustained against the boat in the possession of W. Chapman, who claims to be a purchaser for a valuable consideration, without notice?

Let us inquire whether Chapman be such a purchaser. His own answers to interrogatories have been taken. From these it appears, 1st. That James H. Ure, for whom the boat was built, is his son-in-law.

2. That he paid $2,000 cash for his interest in the boat, and ex-

ecuted his notes, payable to his own order, for $47,000, the balance of the price. A portion of his interest was purchased on the 17th Feb., 1855, and the balance on the 21st Apr., 1855. He knew at the date of the purchase of the existence of some western claims against Ure on account of the Capitol, but had not the slightest knowledge or information of any lien or privilege upon the steamer. He bought her free of all incumbrance. The boat was a new boat, and it is fair to presume, considering the relations existing between Chapman and Ure, that the former must have been perfectly aware that the western claims to which he alludes were the claims of those who built and furnished supplies for the boat. It is difficult to believe that he was altogether ignorant of the character of those claims. His alleged ignorance that a lien existed is quite immaterial, if he had had notice that the claims of the builder and material men were yet unsatisfied. His ignorance of the law can hardly be recognised as a legal defence.

I am by no means satisfied, even from his own showing, that he was a purchaser in good faith for a valuable consideration without notice. The execution of his notes for so large a sum, payable to his own order, was a consideration so easily to be exhibited under all the circumstances, that it strikes the mind very forcibly as being merely nominal; the small cash payment of $2,000 can hardly redeem the transaction from strong suspicions that it was made for the purpose of covering the boat from the pursuit of creditors. But the lien of material men prevails over the title of a bona fide purchaser without notice, but to have this effect it must be enforced within a reasonable time; in this case it is not pretended that the claim of the libellants was not so enforced. (The Barque Chusan, 2 Story, 456; 1 Conkling, 60.) The purchaser to be protected on the ground set up by the respondent in this case, must not only be bona fide and without notice, and for a valuable consideration, but he must have paid the purchase money. (2 Story's Equity, § 1,502.)

There has been no abandonment of the lien against the boat, by giving an exclusive personal credit to the owner. When this case was before me on the former occasion I considered the evidence was conclusive to the effect that the execution of the drafts by Ure never operated, and was never designed to operate, as a waiver of the lien. The giving of notes and drafts can never have such an effect, so long as the notes or drafts are held by the party to whom they were given, and are tendered to be delivered up on the trial. This is a principle so well established in the admiralty law that it is unnecessary to say more on the subject.

I am satisfied that judgment should be given in favor of libellants, with costs.

Robt. M. Lusher, esq., the commissioner in admiralty, will ascertain the precise amount now due from the steamboat "Capitol."

and the final decree will be rendered against her for the sum so ascertained, in favor of the libellants in this case.

Reference to Admiralty Commissioner.

U. S. Dist. Court, East. Dist. of La.

In Admiralty.—7,092.

May Term, 1856.—Stated Sessions—Thursday, June 19, 1856.

The court met at 10 a. m.; present, Hon. T. H. McCaleb.

WRIGHT & BRIDGEFORD, with others,
vs.
STEAMBOAT "CAPITOL."

On motion of T. B. Hart, esq., proctor for the libellants, and on his exhibiting to the court the stipulation and agreement of the parties that the decision of the court in the case of John M. Monohan vs. the steamboat "Capitol," (Nos. 7,095, also 7,093,) shall be rendered and given in the above-numbered and entitled causes, and the court having, on the 27th May, 1856, decided said case of Monohan in favor of the libellant, it is now ordered that the admiralty commissioner, Robert M. Lusher, esq., proceed to ascertain, assess, and report to the court the amount of damages recoverable by the libellants herein, to the end that a final decree be rendered in the cause.

Admiralty Commissioner's Report.—June 19, 1856.

U. S. Dist. Court, East. Dist. of La.

In Admiralty.—Nos. 7,092 and 7,094.

WRIGHT & BRIDGEFORD, of Louisville, Ky.,
vs.
STEAMER "CAPITOL."

To the Hon. Theo. H. McCaleb, judge of the U. S. district court for said district, or —.

The commissioner in admiralty, after a careful examination of the pleadings and evidence in the above cases, respectfully submits the following report:

7,092. The libellants have brought suit on a draft or bill of exchange drawn by James H. Ure, (owner of the Capitol,) to the order of libellants, dated Louisville, Ky., Jan'ry 6, 1855, and payable at 9 mo's, for $1,000; and (7,094) on an acceptance of Ure of a bill of exchange drawn by lib'ts, July 30, 1855, at 4 mo's, for $1,037 54, together with costs of protest and interest at the rate of 6 p. c. per annum.

The account exhibited in evidence and proved by the wit. Chas. H. Harper and Simons Watkins, shows the debt of Jas. H. Ure, or the steamer "Capitol," to have arisen by the furnishing by lib'ts of various materials, supplies, (tin and iron ware for the use

of the boat,) between the 29th of Sept., 1854, and the 6th of Jan., 1855, amounting, in all, to $3,002 19
On which, July 9, 1855, was paid..... 1,002 19

Leaving a bal. then and now due..... 2,000 00

The testimony of Harper and Watkins, and the receipt exhibited by claimants, also show that this account was liquidated on the 6th Jan., 1855, by three bills of exchange—one of which was taken up on the 5th July following, as shown on the face of the account, and another of which is doubtless the bill at 9 mos. for $1,000, sued on by the libellants, (in 7,092.) The 7 mos. bill for $1,000 referred to by claimants and in the receipt in evidence, does not appear in the record, but, in lieu thereof, the acceptance of Jas. H. Ure sued on by libellants, (in 7,094,) which obviously includes interest on the original amount of the bill as well as the principal.

Observing the principle laid down by the court in its decree on the merits, that the bills given by the owner of the boat, and exhibited in evidence, were given in acknowledgment only of the liquidation of the account against the Capitol at the time she was about to leave Louisville, the commissioner is satisfied, and accordingly reports, that the libellants in their two suits are entitled to recover the balance due them on the face of their account—namely, $2,000, with 6 p. c. int., (the Ky. rate,) from the 6 January, 1855, $8 costs of protest and costs of suit.

Respectfully submitted:

ROB'T M. LUSHER,
Ad'y Com'r.

June 19, 1856.

N. B. In the suit now appealed, No. 7,092, G. Lobrano, the appellant, is surety on the original release bond of claimants, executed for the satisfaction of the decree as to the first draft alluded to, ($1,000, and interest from 6 January, 1855, &c.)

ROB'T M. LUSHER, *Com'r.*

Decree.

U. S. Dist. Court East. Dist. of La.

Stated Sessions, 1856.—May Term, Friday, June 20.

In Admiralty.—7,092.

WRIGHT & BRIDGEFORD, of Louisville, Ky.
vs.
STEAMBOAT "CAPITOL."

The court having heretofore, on the 27th May, 1856, adjudged the law of the cases (consolidated) in favor of the libellants, and

being now satisfied from the report of the admiralty commissioner, to whom the matter was referred, that the amount recoverable by the libell'ts, under the admiralty lien existing in their favor, on the steamboat "Capitol" at the time of the institution of their suits, was $2,000, the balance due on their account, as liquidated on the 6th day of January, 1855, with 6 p. c. interest thereon from 6th day Jan., 1855; and it appearing of record herein that said boat was released from seizure in their first suit, (known as No. 7,092,) on the 19th day of Dec'r, 1855, on a bond or admiralty stipulation in the sum of $2,000, executed by the claimants and G. Lobrano, of New Orleans, as surety; and in their 2d suit, (known as No. 7,094,) on the 26th day of Dec'r, 1855, on a bond or like stipulation in the sum of $2,100, executed by the claimants, with John B. Heno and Wm. B. Hogan, of New Orleans, as sureties, whereby the said claimants, namely, Wm. Chapman, John Chapman, David Stonaker, Alex. Poché, (of St. James,) Gerard Mengis, and Thos. M. Ure, (of N. O.,) and the said sureties, respectively, are bound, jointly and severally, to pay the am't awarded by the final decree herein:

Now, therefore, considering the law and the evidence, the court doth pronounce, order, and adjudge, and it is hereby ordered, adjudged, and decreed, that, in favor of the libellants, Wright and Bridgeford, of Louisville, Ky., and against the said claimants and sureties, jointly and severally, according to the tenor of said bonds or stipulations, there be judgment for the full sum of $2,000, (two thousand dollars,) with interest at the rate of 6 p. c. per annum, from the 6th day of Jan'ry, A. D. 1855, until paid, 8 dollars costs of protest and costs of suit to be taxed by the clerk.

NOTE.—G. Lobrano, as surety, is liable for $1,000 on acc't of the foregoing decree, with interest, &c.

R. M. L.,
Com'r and D'y Cl'k.

Claimants' Rule and Grounds for Re-hearing.

U. S. Dist. Court, eastern district of Louisiana.

May Term, 1856.—St'd Sessions—Saturday, June 7th.

In Admiralty.—7,092.

The court met at 10 a. m.; present, Hon. T. H. McCaleb.

WRIGHT & BRIDGEFORD and others
vs.
STEAMBOAT "CAPITOL."

On motion of Messrs. Lacey, Upton, and Wooldridge, proctors for the claimants, it is ordered by the court that the libellants show cause, on Saturday, the 14th inst., at ½ past 9 o'clock a. m., why the final decree rendered herein should not be renewed and a new trial and hearing granted to these claimants, upon the following grounds:

First. Because the court erred in imputing bad faith to the claimant, Wm. Chapman, as upon hearing hereof the claimants will fully show.

Second. Because, though said claimant, Chapman, was in bad faith and not a purchaser bona fide, the other claimants of said boat ought not to be made to suffer.

Third. Because, as on trial hereof the claimants will show, the libellants, by their proceedings of record and their actions in the State courts, fully recognised and averred the ownership of the steamboat Capitol to be in these claimants, and that they cannot be permitted to disprove their own averments, though made in a different court, when made between the same parties, but that their said averments must be taken as full proof against them.

Fourth. Because in law no admiralty lien attaches before the ship has made a voyage.

Fifth. Because the obligations libelled upon are La. paper, subject to La. law, and the rate of interest it carries controlled by the same.

Sixth. Because the answers of Chapman to the interrogatories upon him served are full and explicit, and unevasive; and being such, are entitled to full consideration, and must be held as full proof of all the facts they divulge and contain.

Seventh. Because interest should not have been allowed in said final decree, except from the date of the maturity of the paper libelled upon and attached to said libels; whereas, in said decree interest is allowed upon the same from the 5th day of January, 1855, the date at which said drafts were respectively drawn.

Eighth. Because the final decree of the court as entered herein is also, and for other and further reasons which, on trial hereof, claimants will fully show, contrary to the law and evidence.

Ninth. Because some of the libellants in these causes have recognised the ownership of the steamboat Capitol and gone into the State court, made themselves parties to the proceedings there had against her, and in the concursu upon the bond given by the purchaser for her price have taken their distributive portion.

Submission of Rule for Re-hearing.

U. S. Dist. Court, eastern district of La.

May Term, 1856.—Stated Sessions—Saturday, June 14th, 1856.

The court met at 10 a. m.; present, Hon. T. H. McCaleb.

WRIGHT & BRIDGEFORD and others
vs.
STEAMBOAT "CAPITOL." } In Admiralty.

The rule herein entered on the 7th inst. having been called up, the claimants' proctors submitted their brief in explanation of the

grounds assumed by them, and therewith exhibited records Nos. 9,273, 9,403, 9,404, 9,406 and 9,410, of the fourth district court of New Orleans.

T. B. Hart and H. Marr, esqs., for the libellants, also submitted the rule without argument, and the court took time to consider.

U. S. Dist. Court, eastern district of La.

WRIGHT & BRIDGEFORD and others
vs.
STEAMER "CAPITOL." } In Admiralty.

Decree on application for re-hearing, rendered and filed June 25, 1856.

This is the third time this case has been before the court, and if the points had all been presented properly, the court might long since have been in possession of the merits, and one decree would have settled finally the rights of the parties. Lengthy arguments were heard upon the exceptions. These were overruled, and arguments were again heard upon the question, whether or not the purchasers or purchaser of the boat were such in good faith for a valuable consideration without notice. The court is again called upon to review its decree upon this question, and is told that it has erred in saying that Chapman was not in good faith. If the court is in error, (and I pretend to no exemption from error,) the proctors should seek their remedy by appeal. These repeated applications to be heard upon points which have already been argued, imply a doubt whether the court has bestowed proper consideration upon questions presented.

I have thought, upon mature consideration, that Chapman was in bad faith, and I think so still. My reasons for the conclusion at which I arrived on this point have been already given in writing, and I need not repeat them. These reasons will also cover the grounds for which a new trial now urged on behalf of other purchasers. Whether the latter be purchasers in good faith or not, they will not be permitted to defeat the lien of the material men. So I have decided, and so I again decide.

The fact that the libellants asserted their claim against these purchasers in the State courts as owners of the boat does not estop them in this court from alleging fraud and simulation in the purchase. It is fair to presume that when suits were commenced in the State courts, the libellants were ignorant of facts which subsequent examinations have disclosed. In bringing suits in the first instance they looked, as they would naturally do, to the register, in order to ascertain the names of the owners; but it will hardly be contended that the insertion of a name in the register is conclusive upon all questions of good faith in the transfer.

In answer to the 4th point urged, why a new trial should be granted, I say again that, in my opinion, a lien does exist in favor of builders, and those who have furnished materials and supplies, although the vessel may have never made a voyage, if it be shown that she was designed for navigation on waters within the admiralty jurisdiction.

The drafts sued upon are but the evidences of the original contract, and do not by any means operate as a waiver of the lien. The drafts are evidence that the claims of the libellants were liquidated, and interest should run from the date of final settlement; that is to say, from the date of the obligations, unless it appear that interest has been included in the amount for which the obligations were executed.

The 5th, 6th, 7th, and 8th grounds for a new trial have already been sufficiently considered.

In regard to the 9th ground it is sufficient to say that I am aware of no evidence going to show that some of the libellants have gone into the State courts and made themselves parties there to the proceedings against the boat, and in the concursu upon the bond given by the purchaser for the price have taken their distributive portion. A rehearing is refused.

United States District Court, eastern district of La.

In Admiralty.—7,092.

Stated Sessions, 1856.—May term—Saturday, June 28th, 1856.

The court met at 10 a. m; present, Hon. T. H. McCaleb.

WRIGHT & BRIDGEFORD vs. STEAMBOAT "CAPITOL." } Wm. Chapman, John Chapman, and other claimants.

On motion of Messrs. Lacey & Upton, proctors for the claimants, and on their suggesting to the court that said claimants and their sureties are prejudiced and aggrieved by the final decrees of this court in the above entitled causes, and that they desire to appeal therefrom to the next term of the circuit court of the U. States of this district, it is ordered that said claimants and their sureties, in the respective suits numbered and entitled as above, have and be allowed, accordingly, an appeal from said final decrees, returnable at the November term, 1856, of the circuit court of the United States for this district; and it is further ordered that said appeal shall operate as a "supersedeas," and stay execution of the final decrees of this court on the said claimants and their respective sureties filing in court, within ten days from the 25th inst., their bond of appeal, with good and solvent security in sums exceeding the amounts of said decrees respectively, fifty per cent., according to the usage and practice of this court.

Appeal Bond, $1,500.—Filed and recorded July 3d, 1856.
U. S. Dist. Court, East. Dist. of La.

WRIGHT & BRIDGEFORD vs. STEAMER "CAPITOL." } No. 7,092.

Know all men by these presents, that we, Wm. Chapman, John Chapman, David Stonaker, and Alexander Poche, of the parish of St. James, and Gerard Mengis and Thomas M. Ure, of New Orleans, and G. Lobrano, also of New Orleans, claimants and surety of the steamboat "Capitol," on bond 19 December, 1855, in case of Wright & Bridgeford vs. the Steamboat "Capitol," (No. 7,092,) as principals, and C. Roselius for the said G. Lobrano, as surety, are held and firmly bound unto Wright and Bridgeford, of Louisville, Ky., in the sum of ($1,500) one thousand five hundred dollars, to be paid to the said Wright & Bridgeford, their executors, administrators or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Dated at the said city of New Orleans, this 2d day of July, in the year eighteen hundred and fifty-six.

Whereas the above bounden claimants and surety aforesaid, of the steamboat "Capitol," principals, have appealed to the circuit court of the United States for the eastern district of La., from a final decree of the dist. court of the United States for said district, sitting in admiralty, bearing date the 25th June, 1856, in a cause in which the said Wright & Bridgeford were libellants, and the said Wm. Chapman and others, owners of the steamboat "Capitol," claimants:

Now, therefore, the condition of this obligation is such, that if the said appellants, principals herein, shall prosecute their appeal with effect, and pay all such costs, expenses, and damages as may be awarded against them as such appellants therein, then this obligation to be void, otherwise to remain in full force and effect.

(Signed) G. LOBRANO. [L. S.]
(Signed) C. ROSELIUS, [L. S.]
Security for G. LOBRANO.

Sealed and delivered in presence of—
ROBERT M. LUSHER.

(S'd) Wm. Chapman, John Chapman, A. Poche, Gerard Mengis, and Thos. M. Ure, by their proctors, Geo. L. Lacey and R. A. Upton. [L. S.]

Rule for Execution of Decrees.

United States District Court, eastern district of La.

Stated Sessions, 1856.—May Term—Monday, July 14th, 1856.

In Admiralty.

The court met 10 a. m.; present, Hon. Theo. H. McCaleb.

On motion of Messrs. T. B. Hart and Wm. H. Marr, proctors for libellants, it is ordered by the court that Wm. Chapman, John Chapman and others, claimants of the steamboat "Capitol," and Daniel Edwards and Jos. Maillot, (in 7,089,) and G. Lobrano, (in 7,092,) their sureties respectively, show cause, on Thursday, the 17th day of July inst., at 10 a. m., why execution should not issue in the above entitled cause, upon the ground that the appeal bonds given by said claimants and sureties are insufficient, and not such as the law requires.

Order sustaining G. Lobrano's Suspension Appeal.

May Term, 1856.—Stated Sessions—Thursday, July 17th, 1856.

The court met at 10 a. m.; present, Hon. T. H. McCaleb.

WRIGHT & BRIDGEFORD, of Louisville, Ky.
vs.
STEAMBOAT "CAPITOL." } 7,092.

The rule herein entered on the 14th inst. came regularly up for hearing, T. B. Hart, esq., appearing for the libellants, G. Lobrano surety, with C. Roselius, esq., as his counsel; and the claimants not appearing, when, on motion of libellants' proctor, suggesting that he is satisfied with the security offered by G. Lobrano for the prosecution of his appeal, it was ordered that the rule as to said Lobrano be discharged; and it appearing that the claimants have offered no security in support of their appeal, it was further ordered that as to them the rule be made absolute.

United States of America, eastern district of La.—U. S. District Court.

CLERK'S OFFICE.

I, N. R. Jennings, clerk of said court, certify that the foregoing 121 pages manuscript contain and form a correct transcript of the record of said court in the case of Wright & Bridgeford, of Louisville, Ky., vs. The Steamboat "Capitol," Wm. Chapman and others claimants, and G. Lobrano surety, No. 7,092 of the docket of said court.

In testimony whereof, I hereto set my hand and affix the seal of said court, at New Orleans, this first day of November, A. D. 1856, and 81st year of American independence. [SEAL.]

N. R. JENNINGS, *Clerk.*
By ROBT. M. LUSHER, *Dep. Clerk.*

Opinion.—Rec'd and filed 7th Nov'r, 1857.

WRIGHT & BRIDGEFORD, Libellants,
vs.
THE STEAMER CAPITOL, WM. CHAPMAN, et al., Claim'ts. } No. 2,676.

Appeal from the District Court of the U. S., eastern district of Louisiana.

The libellants claim in their libel to have furnished to the libellee, on the credit of the boat as well as of the master and owners, goods, wares, and merchandise, materials and labor, for the building and equipping the said libellee at Louisville, Kentucky, prior to the 6th January, 1855.

That on the said day their account was settled by bills of exchange, drawn by the master and part owner, James H. Ure, upon himself, and which were payable in New Orleans, at 5, 7, and 9 mos., in equal instalments. That these bills were not designed to discharge the admiralty lien or the lien given by the statute of the State of Kentucky, but that the same remains in full force.

The claimants deny the existence of any lien which this court is competent to enforce. The evidence shows that the steamer Capitol was built at Louisville, Kentucky, in 1854, for James H. Ure, a citizen of Louisiana. That in that year, a part of the furniture and equipment of the boat was supplied by the libellants, and that drafts were given in settlements of the account. That in January, 1855, the boat was temporarily enrolled at Louisville, and in a few days after permanently enrolled at New Orleans, as the property of James H. Ure. That in April, 1855, she was enrolled as the property of the claimants, at the same city. It further appears that, from January, 1855, till December of the same year, she was exclusively employed in navigating the waters of Louisiana. This libel was filed in December, 1855.

The questions arise, whether the libellants have a lien upon the boat for their debt. In my opinion, the libellants have not a lien, either under the general admiralty law or under the statutes of Kentucky, which can be enforced in this court. The reasons for this opinion have been given in the case of Roach & Long versus Steamer Capitol, which was submitted at the same time that this was.

The decree of the district court is reversed, and the libel dismissed.

(Signed) J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the U. S.

Minutes November Term, 1857.—*Decree.*

NEW ORLEANS,
Saturday, 7th November, 1857.

Court met pursuant to adjournment. Present, Hon. Theo. H.

McCaleb, district judge; absent, Hon. J. A. Campbell, presiding judge.

WRIGHT & BRIDGEFORD
vs.
STEAMER CAPITOL, Claimants and Surety. } 2,676.

The following decree was this day received from Hon. J. A Campbell, presiding judge, and ordered to be recorded:

This cause came on to be heard at the last term of the court, upon the transcript of the record from the district court of the United States for the eastern district of Louisiana, and was argued by counsel. On consideration whereof, it is now ordered, adjudged, and decreed that the decree of the said district court be reversed, and that the libel herein be dismissed, with costs.

Petition for Appeal.—Filed 13th Nov'r, 1857.

United States Circuit Court, eastern district of Louisiana.

In Admiralty.

WRIGHT & BRIDGEFORD
vs.
STEAMER CAPITOL, CHAPMAN, and others, Claimants and Respondents.

The above named libellants, conceiving themselves aggrieved by the final decree entered on the seventh day of November, 1857, in the above entitled cause, do hereby appeal therefrom to the Supreme Court of the United States; and they pray that this their appeal may be allowed, and that a transcript of the record, pleadings, and evidence in the cause, duly authenticated, may be sent to the said Supreme Court.

(Signed) T. B. HART,
Proctor for Libellants.

Minutes November Term, 1857.

NEW ORLEANS,
Friday, 13th November, A. D. 1857.

Court met pursuant to adjournment. Present, Hon. Theo. H. McCaleb, district judge; absent, Hon. J. A. Campbell, presiding judge.

WRIGHT & BRIDGEFORD
vs.
STEAMER CAPITOL, Chapman and als., Cl'mts. } 2,676.

On motion of T. B. Hart, esq., of counsel for libellants herein, and on presenting and filing their petition, representing that they

are aggrieved by the decree herein rendered on the 7th instant, and are desirous of appealing therefrom to the Supreme Court of the United States, it is orderd that an appeal be allowed as prayed for, returnable to the next term of the Supreme Court of the United States, upon libellants giving bond, conditioned according to law, in the penal sum of three hundred dollars, with Oglesby and McCaulay as sureties thereon.

Bond for Appeal.—Filed 14th Nov., 1857.

Know all men by these presents, that we, David Wright and James Bridgeford, composing the commercial firm of Wright & Bridgeford, as principals, and Oglesby and McCaulay as sureties, are held and firmly bound, jointly and severally, unto G. Lobrano in the sum of three hundred dollars, lawful money of the United States of America, to be paid to the said G. Lobrano, his heirs, executors, administrators and assigns; for which payment, well and truly to be made, we bind ourselves and each of us, by himself and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated the 13th day of November, in the year of our Lord eighteen hundred and fifty seven.

Whereas the said principals, Wright and Bridgeford, have applied for and obtained an order of appeal to the Supreme Court of the United States, from the decree herein rendered against them in the case of themselves, Wright and Bridgeford vs. Steamer Capitol and her claimants and sureties:

Now, the condition of the above obligation is, that we, the above bounden Wright and Bridgeford, principals, and Oglesby and McCaulay, sureties, will well and truly pay to the said G. Lobrano all such damages and costs as may be awarded against the said Wright and Bridgeford.

WRIGHT & BRIDGEFORD,
Per T. B. HART. [SEAL.]
(Signed) OGLESBY & MACAULAY. [SEAL.]

Signed, sealed and delivered in the presence of—

Circuit Court of the United States, fifth circuit and eastern district of Louisiana.

CLERK'S OFFICE.

I certify that the foregoing one hundred and fifteen pages contain and form a full, true and perfect transcript of all the record and proceedings had, together with all the evidence adduced, on the trial of the case of Wright and Bridgeford, libellants, vs. Steamer Capitol and claimants, G. Lobrano surety and appellant, No. 2,676 of the docket of the said court.

[SEAL.] Witness my hand and the seal of the said court, at the city of New Orleans, this 26th day of December, 1857.

J. W. GURLEY, *Clerk.*

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Citation in Appeal.

THE UNITED STATES OF AMERICA.

The President of the United States to G. Lobrano, surety on the stipulation for the release of the steamer Capitol, in the case of Wright and Bridgeford vs. Steamboat Capitol and her claimants, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, on the first Monday of December next, pursuant to a petition order of appeal filed in the clerk's office of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, wherein Wright & Bridgeford, a commercial firm, composed of David Wright and James Bridgeford, are appellants, and you are appellee, to show cause, if any there be, why the judgment rendered against the said appellants, as in said petition and order mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable R. B. Taney, Chief Justice of the Supreme Court of the United States, this fourteenth day of November, in the year of our Lord one thousand eight hundred and fifty-seven.

THEO. H. McCALEB,
U. S. Judge.

Marshal's Return.

Rec'd Nov'ber 14th, 1857, and on the same day served copy of the within citation in appeal on G. Lobrano, by handing the same to Alfred Phillips, one of said firm of Roselius C. Phillips, att'ys of said G. Lobrano, in person, in the city of New Orleans, and returned November 16th, 1857.

CHAS. CATOIR, *D'y M.*

Filed 23d January, 1858.